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Women and Equalities
Committee

**Reform of the Gender
Recognition Act**

Third Report of Session 2021–22

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to the report*

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Women and Equalities Committee

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Summary

Nearly two decades on from its enactment, calls have been made, repeatedly, by some, for the Government to modernise and simplify the Gender Recognition Act (GRA) 2004. However, concerns about the potential implications of a simplified GRA has led others to oppose moves to change the Act.

Following recommendations made by our predecessor Committee in 2016, and findings from the 2017 National LGBT Survey, in July 2018, the Government, under the leadership of the then Prime Minister, Rt Hon Theresa May MP, launched a public consultation on reforming the GRA in England and Wales. She said that, as part of this reform, she wanted to “see a process that is more streamlined and de-medicalised - because being trans should never be treated as an illness”.¹

Two years after the consultation was launched, the Minister for Women and Equalities set out the steps she would take to reform the gender recognition process. These steps included placing the process online, reducing the fee to £5, and opening at least three new gender identity clinics. We launched our inquiry soon after. From the launch of the Government’s consultation, transgender people were led to believe that the legal gender recognition process might be updated to become streamlined and de-medicalised.

We ensured that we took oral evidence from stakeholders with a range of views, including trans rights groups and women’s rights groups, to ensure we heard arguments both for and against reform, and concerns with other areas including the Equality Act 2010. We are aware that debate in this area has sometimes become extremely toxic, and that many stakeholders disagree on elements of GRA reform. There are, however, areas within the Act where some stakeholders agree. For example, removing the requirement for an applicant to live in the acquired gender for two years, which only entrenches outdated gender stereotypes. The Government should remove this requirement immediately.

We used this inquiry to not only examine the Government’s response to the GRA consultation but to explore what we believe reform of the GRA should look like. The requirement of a diagnosis for gender dysphoria in order to obtain a Gender Recognition Certificate (GRC) should be removed, moving the process closer to a system of self-declaration.

We have carefully considered the arguments for and against the spousal consent provision. The choice to transition by one spouse can, for some, fundamentally change the nature of the relationship and the marriage contract. The spousal consent provision should be removed in favour of a new approach, where a full GRC can be issued at the same time as an annulment, if necessary.

We also recommend a review be conducted of whether the Gender Recognition Panel could be removed and replaced with the Registrar General for England and Wales. In the interim, more needs to be done to improve the transparency around the operation and role of the Panel.

¹ Government Announces Plans to Reform Process of Changing Legal Gender”, Government Equalities Office press release, 3 July 2018.

We reiterate our predecessor Committee's recommendation for better guidance on the single-sex and separate-sex exceptions and urge the Government Equalities Office and Equality and Human Rights Commission to publish guidance immediately, using worked examples and case studies. We also recommend that language used across both the GRA and Equality Act be updated to ensure consistency.

We were also keen to explore some of the wider issues affecting transgender people. We recommend that the Government Equalities Office and Department for Health and Social Care should develop a healthcare strategy for transgender and non-binary people within the next year. We are extremely concerned that the Government Equalities Office appears to have abandoned the LGBT Action Plan and we urge the Government to commit to continuing to implement the Plan across all departments.

1 Introduction

1. The Gender Recognition Act (GRA) 2004 was once considered to be a world-leading piece of legislation² that enables transgender people in the UK, to have their acquired gender recognised and recorded on a new birth certificate, without any requirement for individuals to undergo surgery or hormone treatment.³ Nearly two decades on from its enactment, calls have been made, repeatedly, by some, for the Government to modernise and simplify the GRA, in order to make the process less intrusive and bureaucratic for transgender people. However, concerns about the potential implications of a simplified GRA has led others to oppose a move to change the Act.

2. In 2015, our predecessor Committee launched an inquiry into Transgender Equality, recommending in its 2016 report that the Government must bring forward proposals to update the GRA in line with the principles of gender self-declaration.⁴ In 2018, findings from the Government's National LGBT Survey highlighted that there was "dissatisfaction with the gender recognition process",⁵ thus providing further evidence to support a consultation on reforming the GRA. Finally, in July 2018 the Government, under the leadership of the Rt Hon Theresa May MP, launched a consultation into the Reform of the Gender Recognition Act 2004 (the GRA consultation).

3. In September 2020, the Government, led by the Rt Hon Boris Johnson MP, responded to the consultation, setting out the steps it would take to reform the gender recognition process. We therefore decided to launch this inquiry to assess whether the Government's proposals go far enough, and to understand why the Government did not make changes to the Act in areas where there was a majority in support for reform in the responses to the consultation.

4. As the Government's consultation focused on proposed changes to the gender recognition process in England and Wales, this report only focuses on the legislation affecting those parts of the UK. We have, however, noted the Scottish Government's consultation documents and proposals for reform to the GRA in Scotland.

5. We are aware some debate in this area has become extremely toxic at times, and that many stakeholders disagree on elements of GRA reform. We feel, however, that there are areas within the Act where stakeholders with a range of views, agree on the need for some reform. These areas represent a good starting point to not only bring about meaningful reform, but to encourage a healthy discussion that people feel safe to participate in.

Terminology

6. We are aware that the terminology used in relation to gender identity can often be complex and contested. For consistency, and to allow some read across, throughout this report we have tried to use terminology that is used by the Government in its consultation documentation. A full list of this terminology can be found in Appendix A.

2 Women and Equalities Committee, First Report of Session 2015–16, Transgender Equality, HC 390, para 30.

3 Gender Recognition Act 2004.

4 Women and Equalities Committee, First Report of Session 2015–16, Transgender Equality, HC 390, para 45.

5 Government Equalities Office, LGBT Action Plan, July 2018, p4.

Our inquiry

7. On the 28 October 2020, we launched our inquiry into the Reform of the Gender Recognition Act in order to understand why the Government had not acted upon the views expressed by a majority of respondents to the GRA consultation and to find out whether stakeholders in this area were content with the reforms announced by the Government.

8. We received over 2000 pieces of written evidence, which, at the time, was an unprecedented amount of evidence submitted to a House of Commons select committee. This emphasised the importance of this inquiry, and that many respondents considered there were issues with the GRA which still need to be resolved. Of the written submissions we received, just over 1000 were confidential, with many of those submitters expressing very real fear over the repercussions of having their evidence published. Of those submissions that we have published, we heard from a wide range of stakeholders including campaign groups, academics, and individuals. We are grateful to all those who took the time to inform our inquiry, especially those with lived experience.

9. During the course of the inquiry, we held six oral evidence sessions. Witnesses included: academics, legal experts, LGBT+ and transgender organisations, women's rights groups, a transgender health campaign group and the British Medical Association. We also heard from NHS England, the National LGBT Health Advisor, the Equality and Human Rights Commission and the former Parliamentary Under Secretary of State (Minister for Prevention, Public Health and Primary Care), Jo Churchill MP (who has since moved to the Department for Environment, Food and Rural Affairs).

10. We invited Ministers from the Government Equalities Office (GEO) to give oral evidence, but both refused. This was despite us inviting the Minister for Women and Equalities two months prior to the final oral evidence session and offering a variety of dates. She did not give a reason for her lack of attendance and passed her invitation on to the Minister for Equalities who also refused stating that, "the government will be well represented at the session, with Jo Churchill".⁶ This was not the case, as Minister Churchill was unable to answer questions on equalities issues, including around the GRA and the Equality Act 2010.

11. This report is split into two parts. Part 1 focuses on reform of the Gender Recognition Act and is divided into three main sections: The Government's consultation on and response to GRA reform; the provisions within the GRA; the interaction between the GRA and the Equality Act 2010. Part 2 of the report explores wider issues affecting transgender people, including healthcare, the LGBT Action Plan and non-binary legal recognition.

2 Part 1: Reform of the Gender Recognition Act

12. Part 1 of this report deals with the Gender Recognition Act (GRA) and its reform, as well as its interaction with the Equality Act 2010. It is divided into three main sections:

- **Chapter 1:** The Government's consultation on and response to Gender Recognition Act reform;
- **Chapter 2:** The Gender Recognition Act 2004; and
- **Chapter 3:** The Equality Act 2010 and its interaction with the Gender Recognition Act.

13. The gender recognition process is referred to throughout Part 1 of the report. Box 1 below, sets out the process for applying for a Gender Recognition Certificate in order to help the reader, especially those who are new to this area, understand how the gender recognition process currently works.

Box 1: Applying for a Gender Recognition Certificate

In order for an individual to have their acquired gender legally recognised, applicants must apply to the Gender Recognition Panel (GRP) for a Gender Recognition Certificate (GRC). Applicants can apply for a GRC using one of three routes, depending on their situation: the standard route, alternative route or overseas route. All routes require applicants to be 18 years or over and pay a fee of £5 (up until 2020, the fee was £140 but was reduced by the Minister for Women and Equalities after 34% of responses to the National LGBT Survey said it was too expensive). It is possible for applicants to get help with the fee.

1) Standard route

The most commonly used route to apply for a GRC is the standard route. Applicants applying via the standard route must provide:

two medical reports which include evidence of a medical diagnosis of gender dysphoria and details of any treatment received. One report must be made by a medical practitioner or psychologist practising in the field of gender dysphoria and the other report can be made by a medical practitioner who does not need to specialise in the field of gender dysphoria (for example a GP);

evidence of living in their acquired gender for at least two years; and

a statutory declaration that the applicant will continue to live in their acquired gender permanently.

Married applicants must have the consent of their spouse to be awarded a full GRC. If an applicant's spouse does not give consent, the applicant may be awarded an interim GRC which can be used by either party as grounds to annul the marriage. Then a full GRC can be issued.

2) Alternative route

This route applies to individuals who transitioned at least 6 years before 10 December 2014 (16 December 2014 for Scottish marriage and civil partnerships), when the Marriage (Same Sex Couples) Act 2013 came into force. The route is the same as the standard route except that applicants must provide:

One medical report stating they have, or have had, gender dysphoria OR that they have had surgery in order to change their sexual characteristics;

Evidence they have lived full time in their acquired gender for at least six years prior to 10 December 2014, and intend to continue to do so (different dates apply to Scottish and Northern Irish applicants);

Proof they live in England, Wales, Northern Ireland or Scotland most of the time; and

Evidence that they have been or are in a protected marriage or protected civil partnership before 10 December 2014 (different dates apply to Scotland).⁷

3) Overseas route

Applicants whose acquired gender has already been legally recognised in an approved country or territory and have documentation to prove it can apply through this route.⁸

All applications submitted through any route are considered by the GRP. Those who are successful will be issued with a full GRC and are legally considered to be of their acquired gender (man or woman).

Source: <https://www.gov.uk/apply-gender-recognition-certificate> and <https://researchbriefings.files.parliament.uk/documents/CBP-9079/CBP-9079.pdf>

The meaning of a Gender Recognition Certificate

14. The Government's consultation into the reform of the GRA, asked trans respondents what having a GRC means, or would mean, to them.⁹ The analysis of responses to the GRA consultation outlined some of those responses, including, but not limited to:

- **Validation and equal treatment:** A large number of respondents felt that obtaining a GRC gave, or would give, legal/and or societal validation.
- **Access to an updated birth certificate:** Many respondents felt that obtaining a birth certificate that matched their gender identity would make interaction with government agencies more straightforward.
- **Safety and security:** Having a GRC represented a degree of protection from having their trans status disclosed against their wishes.

7 A marriage or civil partnership is protected if it's one of the following: registered under the law of England, Wales or Northern Ireland, a marriage solemnised in Scotland, a civil partnership registered in Scotland, a marriage registered under the law of a country or territory outside the UK, a marriage on UK consular premises or in an armed forces base, if you elected England, Wales, Northern Ireland or Scotland as the relevant part of the UK.

8 UK Government, Table of Gender Recognition Systems in Approved Countries and Territories Under the Gender Recognition Act 2004, 2011.

9 Minister for Women and Equalities, Reform of the Gender Recognition Act - Government Consultation, July 2018, p29.

- **Marriage:** A GRC enables a trans person to marry in the gender fitting their identity. The ability to do so was seen as an important right by some respondents. It would also enable the correct terminology to be used at wedding ceremonies.
- **Death certificates:** A small number felt it was important that when they died, their certificate would be issued in their correct gender.
- **No meaning:** A small number felt that a GRC did not represent anything in particular. For some, this was because having a GRC would still mean they would not be able to update or delete previous medical and employment history. Some felt that the meaning was marginal (and they therefore did not apply) because they were already able to get all the necessary documentation such as passport, driving licence and bank details changed.¹⁰

10 Professor Daniel King, Professor Carrie Paechter, Dr Maranda Ridgway and researchers at Nottingham Trent University, Gender Recognition Act: Analysis of Responses, (September 2020), p38–40.

3 Chapter 1: The Government's consultation on and response to Gender Recognition Act reform

15. In 2015, our predecessor Committee launched an inquiry into Transgender Equality which explored a wide range of policy areas affecting transgender people, including health services, schools and the criminal justice system.¹¹ It also focused part of its inquiry on the Gender Recognition Act (GRA), making several recommendations for reform and calling on the Government to “bring forward proposals to update the Gender Recognition Act, in line with the principles of gender self-declaration”.¹² In response to the Committee’s recommendation, the then Government committed to “review the Gender Recognition Act to determine whether changes can be made to improve it in order to streamline and de-medicalise the gender recognition process”.¹³

16. In 2017, the Government Equalities Office (GEO) launched its National LGBT Survey to gather evidence on LGBT people’s experience of daily life in the UK, exploring areas such as education, health and safety.¹⁴ Part of this survey asked for evidence on transgender people’s experience of the legal recognition process and their experience of transitioning. The results of the survey highlighted the reasons why many transgender people had not applied for legal gender recognition, including: not satisfying the requirements (44%), the process was too bureaucratic (38%) and that it was too expensive (34%).¹⁵ It was said that the National LGBT Survey provided “additional evidence to support a consultation on the GRA”.¹⁶

17. On the 3 July 2018, the Government Equalities Office (GEO) launched a public consultation on reforming the GRA in England and Wales, which ran until 22 October 2018. Among other things, it asked for people’s views on the process for applying for a Gender Recognition Certificate (GRC) (see Box 1), as well as the potential implications of GRA reform on the exceptions in the Equality Act.

11 Women and Equalities Committee, First Report of Session 2015–16, Transgender Equality, HC 390.

12 As above, para 45.

13 Government Equalities Office, Government Response to the Women and Equalities Committee Report on Transgender Equality, (July 2016), p11.

14 Government Equalities Office, National LGBT Survey: Summary Report, July 2018.

15 Government Equalities Office, National LGBT Survey: Summary Report, July 2018, p23.

16 Professor Daniel King, Professor Carrie Paechter, Dr Maranda Ridgway and researchers at Nottingham Trent University, Gender Recognition Act: Analysis of Responses, (September 2020), p17.

18. According to the GEO, the purpose of the sixteen-week consultation on reform of the GRA was to:

- look to make the process of obtaining new birth certificates less intrusive and bureaucratic for transgender people
- gather evidence to further advance equality for non-binary and intersex people
- not water down the Equality Act protections for single-sex services or for trans people.¹⁷

19. The then Prime Minister, Theresa May, said:

Last year I committed to carrying out a consultation on the Gender Recognition Act and I'm pleased to be able to launch that today. What was very clear from our survey is that transgender people across the UK find the process of legally changing their gender overly bureaucratic and invasive. I want to see a process that is more streamlined and de-medicalised - because being trans should never be treated as an illness".¹⁸

20. The consultation received a total of 102,818 valid responses by way of online forms, direct email, and post.¹⁹ On the 22 September 2020, over two years after the Government first opened the consultation, the Minister for Women and Equalities, the Rt Hon Elizabeth Truss MP, responded to the Government's consultation in a Written Ministerial Statement to Parliament. In her Statement, she said:

It is the Government's view that the balance struck in this legislation is correct, in that there are proper checks and balances in the system and also support for people who want to change their legal sex. However, it is also clear that we need to improve the process and experience that transgender people have when applying for a Gender Recognition Certificate - making it kinder and more straightforward. Our changes will address the main concerns that trans people themselves tell us they have about it.²⁰

21. She announced that those changes would include placing "the whole procedure online", reducing the fee for a Gender Recognition Certificate (GRC) from £140 to a "nominal amount" and opening "at least three new gender clinics this year [2020], which would see waiting lists cut by around 1,600 patients by 2022".²¹ This Written Ministerial Statement was accompanied by an analysis of consultation responses, commissioned by the GEO and undertaken by academics and researchers at Nottingham Trent University.²²

17 "Government Announces Plans to Reform Process of Changing Legal Gender", Government Equalities Office press release, 3 July 2018.

18 "Government Announces Plans to Reform Process of Changing Legal Gender", Government Equalities Office press release, 3 July 2018.

19 Professor Daniel King, Professor Carrie Paechter, Dr Maranda Ridgway and researchers at Nottingham Trent University, *Gender Recognition Act: Analysis of Responses*, (September 2020), p7.

20 Government Equalities Office and the Rt Hon Liz Truss, *Written Ministerial Statement: Response to Gender Recognition Act (2004) consultation*, 22 September 2020.

21 As above.

22 Professor Daniel King, Professor Carrie Paechter, Dr Maranda Ridgway and researchers at Nottingham Trent University, *Gender Recognition Act: Analysis of Responses*, (September 2020).

22. In this first chapter of our report, we examine the Government’s response to the GRA consultation in detail. We start by examining the adequacy of the Government’s proposed changes to the gender recognition process. We then explore the lengthy delay in providing a response to the consultation and the failure to address key areas where there was support from a majority of respondents for reform. Finally, we scrutinise the approach taken by both the Government and the Equality and Human Rights Commission in relation to their engagement and reform in this area.

Reducing the fee

23. In order to apply for a Gender Recognition Certificate, applicants must pay a fee, which up until recently was £140.²³ Applicants on certain benefits or on a low income can apply for help paying the fee.²⁴ When the Minister for Women and Equalities responded to the consultation, she pointed to findings from the National LGBT Survey which found that 34% of people found the process too expensive. She said that because of these findings, the Government would reduce the fee to a “nominal amount”.²⁵ On the 4 May 2021, the Minister for Women and Equalities announced that the fee would be reduced from £140 to £5, in order to make the process “more affordable and remedying one of the key issues that was identified by transgender people in the GRA consultation and the National LGBT Survey”.²⁶

24. As part of its consultation into reform of the GRA, the GEO asked respondents whether they thought the fee for a Gender Recognition Certificate should be removed from the process of applying for legal gender recognition.²⁷ Of those who responded to this question, 58.5% agreed it should be removed, with 41.5% stating it should not.²⁸ A further question was asked to those respondents who thought the fee should be retained, seeking their views on whether the fee should be reduced instead. 64.7% (nearly two-thirds) indicated that the fee should not be reduced, with 35.3% stating it should.²⁹

25. Both evidence to our inquiry, as well as data presented in the analysis of consultation responses, argues that the fee for a Gender Recognition Certificate should be removed completely. One of the reasons given for this is that there are other financial burdens on applicants. Written evidence submitted by the Rainbow Network, a group representing LGBT+ staff members and PhD students at The University of Birmingham, argued that the fee for obtaining at least one statutory declaration; the cost of medical appointments; and the travel costs to doctors’ appointments, legal professionals and gender identity clinics, already made the process expensive.³⁰ This was reiterated by Professor Stephen Whittle OBE, Professor of Equalities Law at Manchester Metropolitan University who said there

23 “Gender Recognition Certificate fee reduced”, Government Equalities Office, Equality Hub and the Rt Hon Elizabeth Truss MP, press release, 4 May 2021.

24 Gov.uk, Apply for a Gender Recognition Certificate [accessed 16 July 2021].

25 Government Equalities Office and the Rt Hon Liz Truss, Written Ministerial Statement: Response to Gender Recognition Act (2004) consultation, 22 September 2020.

26 “Gender Recognition Certificate fee reduced”, Government Equalities Office, Equality Hub and the Rt Hon Elizabeth Truss MP, press release, 4 May 2021.

27 Minister for Women and Equalities, Reform of the Gender Recognition Act - Government Consultation, July 2018, p38.

28 Professor Daniel King, Professor Carrie Paechter, Dr Maranda Ridgway and researchers at Nottingham Trent University, Gender Recognition Act: Analysis of Responses, (September 2020), p69.

29 As above, p70.

30 GRA1280.

was an issue with the “gradual accumulation of cost”.³¹ He explained that “somebody who is wishing to get this done in a timely fashion will find themselves with fees of up to £1,000 for medical costs and application costs” and this is “just out of reach of many people”.³²

26. When we spoke to some women’s organisations about the fee, Dr Nicola Williams, Director and spokeswoman for Fair Play for Women, a campaign group working to protect the rights of women, told us that the fee is “not a key issue”.³³ She explained:

If there are ways to streamline the process and to make it easier for the people who are already eligible to get a GRC, there is no reason why that should not be looked at. The key here is that we must not get confused with making a process easier to people who are not already eligible.³⁴

27. However, Raquel Rosario-Sanchez, Trustee and spokeswoman for FiLia, a women-led volunteer organisation, argued that “the fee should be retained”.³⁵ She argued that “comparable to other bureaucratic processes in society, it is not that burdensome”, stating that “people applying for citizenship in the United Kingdom have to pay about £1,000 and probably more”.³⁶ Judith Green, Co-founder of Woman’s Place UK, a women’s campaign group, said that “in principle, we support low or no fees in general”.³⁷ She did however state that some “women will look at this 95% reduction from £140 to less than £10 as being extraordinarily generous in the context of those other bureaucratic processes”.³⁸

28. Another issue raised with regards to the fee focused on there not being enough transparency about what the fee is for. Dr Jane Hamlin, President of the Beaumont Society, an organisation run by and for the transgender community, explained, “we are not clear what the purpose of the fee is. If it were absolutely clear, perhaps we would be happier about it”.³⁹

29. Information in the analysis of consultation responses paper, states that “the cost reflects the fact that the gender recognition process is a public service that costs money to run”.⁴⁰ However, it also states that, “the income from the fees does not currently cover the full costs of running the service”.⁴¹

30. We consider the reduction in the fee for a Gender Recognition Certificate from £140 to £5 to be a step in the right direction. This new nominal amount will however contribute virtually nothing to the running of the Gender Recognition Certificate system and appears tokenistic. The Government’s consultation showed that there is support for removing the fee altogether. We recommend that the Government provide a response to this report explaining its rationale for reducing the fee from £140 to £5.

31 Q2.

32 As above.

33 Q132.

34 Q132.

35 Q131.

36 As above.

37 Q132.

38 As above.

39 Q112.

40 Professor Daniel King, Professor Carrie Paechter, Dr Maranda Ridgway and researchers at Nottingham Trent University, Gender Recognition Act: Analysis of Responses, (September 2020), p69.

41 As above.

Placing the process online

31. In her response to the consultation, the Minister for Women and Equalities announced that the GEO would place the process for applying for a GRC online.⁴² She presented evidence from the responses to the National LGBT Survey to justify this decision:

The [National LGBT] survey then asked those who had not applied [for a GRC] what had prevented them from doing so. They were able to choose as many reasons as they wanted. Thirty-eight per cent told us the process was too bureaucratic. So we will place the whole procedure online.⁴³

32. Whilst this move was broadly welcomed in written evidence to our inquiry, some felt placing the process online does not go far enough. Barnardo's, a charity for vulnerable children, argued that whilst moving the process online would make it "marginally easier for some trans people to apply for a GRC", the Government's proposals for reform do not go far enough in making a significant difference for people applying for a GRC.⁴⁴ Similarly, Gendered Intelligence, a charity that aims to increase understanding of gender diversity and improve the lives of trans people, argued that "making the application process online is a positive step, but will be universally and correctly recognised as a tiny step nonetheless which does little to assuage trans people that thorough understanding of our actual needs are being met".⁴⁵ Written evidence submitted by Birmingham LGBT, an LGBT charity, argued that "moving the process online does nothing to address the truly significant barriers that trans people face to achieving gender recognition".⁴⁶

33. Some people also argued that placing the process online does not amount to reform. Written evidence submitted by Public and Commercial Services Union argued "making it slightly easier and cheaper to apply for a Gender Recognition Certificate is not reform".⁴⁷ Similarly, evidence from the LGBT+ Liberal Democrats argued that moving the process online "is not a 'reform of the process to get a GRC'" but that "it is finally bringing the process up-to-date with other government services that can accessed online".⁴⁸

34. Concern was also expressed about those who have limited or no access to the appropriate digital device. Professor Stephen Whittle told us:

Online is okay if you have a laptop or a tablet. We are talking about a community of people, many of whom are young and are in low-income gig economy jobs. [...] An online process is not going to make it easier unless it is a much simpler process than the one we have at the moment.⁴⁹

This was reiterated by Nancy Kelley, Chief Executive of Stonewall, an LGBT charity, who said:

42 Government Equalities Office and The Rt Hon Elizabeth Truss MP, Written Ministerial Statement : Response to the Gender Recognition Act (2004) consultation, 22 September 2020.

43 Government Equalities Office and The Rt Hon Elizabeth Truss MP, Written Ministerial Statement : Response to the Gender Recognition Act (2004) consultation, 22 September 2020.

44 GRA1547.

45 GRA1485.

46 GRA1540.

47 GRA1292.

48 GRA0987.

49 Q10.

Obviously, digitalisation is very good for access in certain circumstances, but we need to think about how people who are digitally excluded for a range of reasons, which can include poverty, disability and other factors, will access GRCs. It is important to think about what the non-digital pathway looks like.⁵⁰

35. In written evidence to us, Judge Paula Gray, President of the Gender Recognition Panel (See Box 1), told us that, “the purpose of digitalisation is to make things easier for applicants, and I am told that (in common with much other digitalisation in legal proceedings) provision will be made for those who cannot or prefer not to use a digitalised process”.⁵¹

36. Another area of concern focused on how digitalisation of the entire process would work for applicants. Cat Burton, Chair of the Gender Identity Research & Education Society (GIREs), a charity whose purpose is to improve the lives of trans and gender diverse people, told us:

How on earth am I going to send 2,500 sheets of paper justifying my last two years of life? Putting them together in a box and sending them to Leicester was one thing but scanning them all into the Government system is something else entirely. Unless you strip away all this bureaucracy, there is no way that a current gender recognition application could work digitally.⁵²

37. We were also told that data protection was a concern for some people. Dr Jane Hamlin from the Beaumont Society told us that “quite intimate information is included in the documents” submitted to obtain a GRC.⁵³ She explained that she would not like to think that an applicant could “accidentally click a mouse and it would be sent here, there and everywhere”.⁵⁴ This was also echoed in written evidence which added that some people could be put off from applying for a GRC because of a fully digitalised process. Action for Trans Health Durham, a campaign group for improved transgender healthcare, explained that due to the “highly confidential and personal nature of the process”, some applicants “may not feel able to use public internet spaces such as libraries, leaving some of them unable to complete the process at all”.⁵⁵

38. We asked the Minister for Women and Equalities for an update on the progress being made for digitisation, timescales for when it would be achieved and whether a non-digitalised process will also be available. The Minister responded stating:

The digitalisation work is progressing steadily, following Government Digital Service principles, including those around accessibility. I am monitoring the process closely and will share more information when it is available in due course.⁵⁶

39. *We welcome the move to offer applicants a digital route. This will bring the process up to date with other Government services, which can be accessed online. The*

50 Q113.

51 GRA2026.

52 Q113.

53 As above.

54 As above.

55 GRA1324.

56 Letter from the Minister for Equalities to the Chair of the Women and Equalities Committee, 14 July 2021.

Government must ensure it is a system that can be accessed via smartphones as well as other devices. It will also need to offer a non-digitised route for those people who do not have access to the right technology and who feel more able to submit documents in hard copy. In response to this report the Government must set out and commit to placing the process online in the next six months. It should provide regular updates to stakeholders, including this Committee, on what stage the process is at and immediately clarify whether a non-digitalised system will continue to exist.

The opening of new gender identity clinics

40. Gender identity clinics, also known as gender dysphoria clinics, are specialised services commissioned by NHS England (and their equivalents in other parts of the UK), offering support (including assessments, diagnosis and treatment) to those with gender dysphoria.⁵⁷ For those who are going through the legal recognition process, many will have to wait to be seen by a specialist in these clinics before commencing with the legal recognition process (see Box 1). There are currently seven established adult gender identity clinics across England, based in London, Sheffield, Leeds, Newcastle, Northamptonshire, Nottingham and Exeter. In 2020, a series of pilot clinics opened in Greater Manchester, London and Merseyside to try and reduce long waiting times.

41. This section of the report deals with the opening of the gender identity clinics, announced by the GEO in response to the GRA consultation. We will look at gender identity clinics and transgender healthcare in more detail in Part 2: Chapter 4 of this report.

Input from the Government Equalities Office to new clinics

42. In response to the GRA consultation, the Minister for Women and Equalities acknowledged the long waiting times transgender people experience when accessing gender identity clinics.⁵⁸ She said:

Trans people tell us that waiting lists at the NHS gender clinics are too long. I agree, and I am deeply concerned at the distress it can cause. That is why we are opening at least three new gender clinics this year, which should see waiting lists cut by around 1,600 patients by 2022. The full benefit of the increases in clinical capacity that we've been able to secure will lead to greater patient choice, shorter waiting times, better geographical coverage and easier access. It will also make it easier to fulfil the medical requirements of obtaining a GRC.⁵⁹

43. Throughout our inquiry, we have repeatedly been told that these three clinics—opened in Greater Manchester, London and Cheshire and Merseyside⁶⁰—are, in fact, pilot clinics, planned and developed by NHS England and its Gender Dysphoria Clinical Programme Board.⁶¹ It was frequently argued that these pilot clinics had already been announced by

57 Gender recognition and the rights of transgender people, Briefing Paper 08969, House of Commons Library, 22 July 2020.

58 Government Equalities Office and The Rt Hon Elizabeth Truss MP, Written Ministerial Statement: Response to the Gender Recognition Act (2004) consultation, 22 September 2020.

59 As above.

60 NHS England, How to find an NHS gender dysphoria clinic, [accessed 20 July 2021].

61 NHS England, Gender Dysphoria Clinical Programme, [accessed 20 July 2021].

NHS England prior to the Minister’s Statement, and were therefore not initiated by the GEO in response to the consultation.⁶² Dr Harriet Hutchinson, Community Organiser at Action for Trans Health Durham, told us:

When the announcement was made for three new gender identity clinics around the time of the results of the consultation on GRA reform, these were neither new nor gender identity clinics. These were pilot programmes. These are two-year pilot programmes that will take 500 patients each. That is 1,500 patients out of an existing waiting list of 13,500 people across the UK. Locally for our service users, it will have zero impact whatsoever.⁶³

Similarly, Lui Asquith, Director of Legal and Policy at Mermaids, a charity supporting transgender, non-binary and gender-diverse children and young people, told us that “they are not deemed new clinics” and that Mermaids “understand them to be pilot schemes”.⁶⁴

44. During an Urgent Question on the Government’s response to the consultation on the GRA in September 2020, the Minister for Women and Equalities was asked whether these clinics were in fact new clinics.⁶⁵ She responded by saying:

These clinics are new. As for whether they are the pilot clinics previously announced, those in the Department of Health and Social Care are the experts on that, but they are new clinics and they will reduce the waiting list [...].⁶⁶

45. When we asked the then Minister for Prevention, Public Health and Primary Care, Jo Churchill MP, whether the opening of the new clinics was driven by the GEO, she replied, “No. They were provided by the NHS”.⁶⁷ John Stewart, National Director of Specialised Commissioning at NHS England, told us that the “development and design of these clinics was absolutely overseen by our gender dysphoria programme board”.⁶⁸ He also told us that a fourth pilot clinic was due to be introduced in the east of England in the summer of 2021⁶⁹ and that this was “an NHS England decision”.⁷⁰ He later informed us that a fifth pilot service will be launched in Sussex by 2022.⁷¹

46. The wording of the statement by the Minister for Women and Equalities suggested that the three clinics she referred to were new initiatives, driven by the Government Equalities Office in response to its consultation. The three pilot clinics in question had, in fact, already been announced and were a product of planning by NHS England. It is not clear that the Government Equalities Office had any input into these pilots. The inclusion of the clinics in the consultation response statement served only as a distraction from the lack of any real change to the gender recognition process.

62 See for example GRA1575, GRA0811, GRA0484.

63 Q175.

64 Q114.

65 HC Deb, 24 September 2020, col 1137, [Commons Chamber].

66 HC Deb, 24 September 2020, col 1137, [Commons Chamber].

67 Q265.

68 Q194.

69 Q188.

70 Q190.

71 Letter from John Stewart, Director of Specialised Commissioning to the Chair of the Women and Equalities Committee, 16 July 2021.

Delay in responding to the consultation

47. The Government’s consultation on reform of the GRA ran between July and October 2018 and the Government responded in October 2020. Several pieces of written evidence⁷² to our inquiry argued that the two-year gap between the closing of the consultation and the Government’s response “fuelled the toxicity of the debate around gender recognition” and created “bitter and unnecessary divisions between particular groups”.⁷³ We were told that the delay left a gap in which the spreading of misinformation about both the Gender Recognition Act and the Equality Act 2010 contributed to divisions and led to public confusion. Lui Asquith from Mermaids, told us:

The delay added fuel to the confusion, which we referred to earlier, between the Equality Act and the Gender Recognition Act. Incorrect information was put out. At the time, it added to the idea that this erroneous information was correct. That was a huge problem.⁷⁴

48. We were repeatedly told about the negative impact of the Government’s delayed response on many transgender people. Lui Asquith told us that, during this period, there was a “dangerous move to questioning the existence of trans people within this country”, and that there was “no unequivocal message from the Government to say, “This is where we stand. We include trans people and we will not tolerate intolerance””.⁷⁵ This was reiterated by Nancy Kelley from Stonewall, who said that the length of time the consultation was open for and the length of time it took for the Government to respond, “allowed anti-trans mobilisation to happen”.⁷⁶

49. Other stakeholders we spoke with were not concerned by the length of time taken by the Government to respond. Judith Green told us:

It is not the length of time that has made the debate toxic; what has really toxified the debate has been an insistence that any questioning or dissent from the idea that we must proceed to self-identification is viewed as transphobic. In this atmosphere of #NoDebate, anyone who wants to object, or question has been described in that way.⁷⁷

Dr Nicola Williams also told us that “the Government took a long time to come to that decision, but the discussion needed to happen”.⁷⁸ However, she did acknowledge that “decision making done swiftly is better than decision making that is delayed”.⁷⁹ She said that whilst the Government has “now made their decision and struck a fair balance, the problems still exist, so more discussions will still have to be had”.⁸⁰

50. Our Chair wrote to the Minister for Equalities asking about the length of time it took to respond to the GRA consultation.⁸¹ The Minister for Equalities replied stating:

72 See for example, GRA990, GRA1145, GRA1291, GRA0813.

73 GRA1291.

74 Q110.

75 Q110.

76 Q109.

77 Q126.

78 As above.

79 As above.

80 Q126.

81 Letter from the Chair of the Women and Equalities Committee to the Minister for Equalities, 29 June 2021.

As to the alleged delay in responding to the consultation; firstly, the consultation was extensive - we received over 100,000 responses and officials met with 140 representative organisations during and after the consultation, including LGBT and women's organisations. It is a complex area and we wanted to fully assess the evidence to make sure that our response was right. More widely, you will understand that the general election in December 2019 and the COVID-19 pandemic, in which a substantial number of GEO staff were re-deployed to other Government departments, caused some delay.⁸²

51. The 2018 Government Consultation Principles document, which sets out guidance to government departments on conducting consultations, states that "Government responses to consultations should be published in a timely fashion".⁸³ Section J of this document highlights that the Government should "publish responses within 12 weeks of the consultation or provide an explanation why this is not possible".⁸⁴

52. The length of time taken by the Government Equalities Office to respond to its own consultation is unacceptable. Not only did this delay exacerbate tensions between an already polarised group of stakeholders, but it also caused real distress to many within the transgender community. The Government's own Consultation Principles make it clear that an explanation should be provided to stakeholders if a consultation response will not be issued within 12 weeks of the consultation closing. The GEO should have responded to its own consultation within the 12-week limitation, in line with the 2018 Government Consultation Principles document. Failing that, the GEO could and should have published a statement notifying stakeholders of its progress and reasons for the delay, especially given the sensitive nature of the consultation. It should have also indicated to stakeholders when a response was likely to be issued.

Failure to address key areas

53. The analysis of GRA consultation responses, highlights that a majority of respondents were in favour of reform in several areas, including: i) the spousal consent provision (84.9% of those who responded to this question did not agree with the current provisions),⁸⁵ ii) the requirement to live in the acquired gender (78.6% of those who responded to this question were in favour of removing this requirement),⁸⁶ iii) the requirement for a diagnosis of gender dysphoria (of those that responded 64.1% said that there should not be a requirement for the diagnosis of gender dysphoria in the future).⁸⁷ We consider each of these areas in more detail in Chapter 2 of this report.

54. In her Written Ministerial Statement responding to the consultation, the Minister for Women and Equalities acknowledged that the Government needed "to improve the process and experience that transgender people have when applying for a Gender

82 Letter from the Minister of Equalities to the Chair of the Women and Equalities Committee, 14 July 2021.

83 Cabinet Office, Consultation Principles 2018, (17 July 2012 - last updated 19 March 2018), p2, para J.

84 As above.

85 Professor Daniel King, Professor Carrie Paechter, Dr Maranda Ridgway and researchers at Nottingham Trent University, Gender Recognition Act: Analysis of Responses, (September 2020), p65.

86 Professor Daniel King, Professor Carrie Paechter, Dr Maranda Ridgway and researchers at Nottingham Trent University, Gender Recognition Act: Analysis of Responses, (September 2020), p52.

87 As above, p41.

Recognition Certificate - making it kinder and more straightforward”.⁸⁸ She added that the Government’s reforms “will address the main concerns that trans people themselves tell us they have about it”.⁸⁹ The changes proposed, however, were few and did not address key issues. Instead, they focussed on the narrow administrative changes discussed above.

55. In our Terms of Reference for this inquiry, we asked submitters whether these proposed changes met the Government’s aim of making the process kinder and more straightforward; an overwhelming number of submitters told us that they did not. We were told the changes “do not go far enough” and “fall far short”.⁹⁰ For example, The Ozanne Foundation, a charity working with religious organisations to eliminate discrimination based on sexuality or gender, argued:

In our view, the Government’s response on reforming the Gender Recognition Act has been inadequate. Whilst some of the Government’s proposed changes - such as committing to reduce the fee for a Gender Recognition Certificate - will be beneficial, the vast majority of changes do not nearly go far enough and fall far short of the commitments set out in the 2018 LGBT Action Plan.⁹¹

56. In oral evidence to us, Professor Stephen Whittle said:

It is clear that the failure of Government to respond to the figures in their own consultation has meant the [trans] community feels, as Alex said, infantilised and ignored. I have seen people who were respondents depressed, especially young people who feel that a large element of their future and their plans in life has now been taken away from them, particularly those who are on long waiting lists. The response of the Government to the consultation - and it was their consultation - has been completely lacking.⁹²

Galop, a LGBT+ anti-abuse charity, argued:

[The consultation] process has resulted in only modest reforms, and has left many trans people feeling that it was harmful to trans people and previous progress on trans rights. Trans people’s trust in the Government has unfortunately been damaged by the consultation process, and we urge that the Government seeks to undo the harm caused by taking positive action to protect and support trans people.⁹³

57. Conversely some stakeholders argued that the Government’s proposed changes did meet the aim of making the process kinder and more straightforward, because they balanced the concerns of transgender people with the concerns of other groups with

88 Government Equalities Office and The Rt Hon Elizabeth Truss MP, Written Ministerial Statement : Response to the Gender Recognition Act (2004) consultation, 22 September 2020.

89 As above.

90 See for example: GRA1414, GRA1580, GRA1462, GRA0949, GRA1680, GRA1497, GRA1052, GRA0893.

91 GRA1052.

92 Q4.

93 GRA1614.

protected characteristics.⁹⁴ Some also argued that “‘kindness’ should not have a place in law, and instead ‘fairness’ and the strive for equality should be the goal”.⁹⁵ Let a Woman Speak, a women’s organisation, argued:

While it is important to recognise the struggles of those who identify as trans, it is also important to maintain the protected characteristics of sex that allow biological women to meet and feel safe as a group.⁹⁶

58. We wrote to the Minister for Equalities to ask several questions, including why the Government did not take forward reform in areas where there was support from a majority of respondents to the consultation.⁹⁷ We specifically asked about this in relation to the spousal consent provision, the requirement to live in the acquired gender, and the diagnosis of gender dysphoria. The Minister responded by stating:

After fully considering evidence provided, it was the Government’s view that the balance in the current legislation is correct - it provides checks and balances but also support for people who want to change their legal sex. The requirements set out in the legislation are fundamental safeguards to ensuring a robust gender recognition system which is fit for purpose. The consultation was just that, a consultation to gain further insight, and not a referendum on what changes should be made.⁹⁸

59. The Government’s reforms should improve the process for transgender people, whilst ensuring the appropriate safeguards for those with concerns. *The Government should bring back an action plan for reform to the Gender Recognition Act within 12 weeks in those areas where there was a majority in support for it. This should be done specifically in relation to the spousal consent provision, the requirement to live in the acquired gender and the diagnosis of gender dysphoria.*

Approach taken by the Government Equalities Office and the Equality and Human Rights Commission

60. Throughout this inquiry, we have repeatedly tried to engage with both the Government Equalities Office and the Equality and Human Rights Commission (the Commission) on this important issue. Many of our stakeholders had expressed frustration at the GEO’s handling of and response to the GRA consultation and urged our Committee to hold Ministers to account. We also received both oral and written evidence criticising the GEO and the Commission in several areas, for example the provision of guidance around single-sex spaces (see Chapter 3). Finally, we wanted to understand what steps both bodies were taking to foster good relations between different stakeholders, given the polarised nature of the debate.

The Government Equalities Office

61. It is one of the duties of this Committee to examine and scrutinise the work of the GEO, holding it to account on equality law and policy. One of the key ways in which committees

94 See for example: GRA1830, GRA1092.

95 GRA1092.

96 As above.

97 Letter from the Chair of the Women and Equalities Committee, 29 June 2021.

98 Letter from the Minister of Equalities to the Chair of the Women and Equalities Committees, 14 July 2021.

fulfil their function is to question ministers during oral evidence. This particular inquiry received a significant amount of written evidence, not only demonstrating the importance of the issue but reinforcing the need for proper scrutiny of ministerial decision-making in this area. Whilst we did receive written evidence from the GEO, it did not go into sufficient detail.

62. We contacted the Minister for Women and Equalities with an invitation to give oral evidence, two months prior to our final oral evidence session. She declined our invitation, offering no reason, and forwarded it onto the Minister for Equalities, Kemi Badenoch MP. Minister Badenoch also repeatedly declined our invitation, stating that the Government would be well represented by Jo Churchill MP, the then Minister for Prevention, Public Health and Primary Care at the Department of Health and Social Care.⁹⁹ This was not the case, however. Throughout the evidence session, Minister Churchill told us that she was unable to provide an answer to many of our questions because it was a matter for GEO policy, even stating at one point, “I am really sorry to sound like a stuck record, but that is GEO policy”.¹⁰⁰ A similar response was given to us by the Chair of the Equality and Human Rights Commission who told us on one occasion, “that question is better addressed to the GEO”.¹⁰¹ Our frustration was further exacerbated when Minister Churchill told us that the GEO would be “listening in” on the session.¹⁰² We had no option other than to write to Minister Badenoch shortly after our final oral evidence, with some of the questions we would have asked in person.¹⁰³

99 Letter from the Minister for Equalities , 7 June 2021.

100 Q271.

101 Q241.

102 Q259.

103 Letter to the Minister for Equalities, 29 June 2021.

63. The Ministers' refusal to attend the evidence session runs contrary to the Ministerial Code which states that, "Ministers have a duty to Parliament to account and be held to account, for the policies, decisions and actions of their department and agencies".¹⁰⁴ That is why in June this year, our Chair wrote to the Speaker, the Leader of the House and the Chair of the Liaison Committee to express our concerns about the approach being taken by GEO Ministers towards our essential scrutiny work.¹⁰⁵

64. In her response to a letter from the Chair of the Liaison Committee, enquiring into her absence from our session, the Minister for Equalities suggested we should focus our work elsewhere:

On the particular issue of the review of the Gender Recognition Act 2004, the Government made its position abundantly clear in its response to the consultation in September 2020. In general terms, I would suggest there is more substance for the Committee to scrutinise, when significant reviews on relevant issues have concluded and the Government has more to say on its policy perspectives - though clearly it is for the Committee to decide where to focus its time and attention.¹⁰⁶

65. Our concern about both Ministers evading essential scrutiny of LGBT policy was worsened when we spoke to former members of the Government's LGBT Advisory Panel in May this year, one of which accused the Government of creating "a hostile environment for LGBT people".¹⁰⁷ When we spoke to some of the former members of the Panel, Paul Martin from the LGBT Foundation, a charity delivering advice, support and information services to LGBT communities, told us that the Panel was frequently "side-lined and not contacted" by the GEO.¹⁰⁸ Jayne Ozanne from the Ozanne Foundation told us that GEO Ministers are known within the LGBT community as the 'Ministers for Inequality'. She said this was because "the lack of action on key matters, and speeches that talk about fairness and undermine campaigners".¹⁰⁹ She explained that "statements by the Government and decisions - and GRA reform is just one - that have fed into a belief that we are going backwards on trans rights".¹¹⁰

The Equality and Human Rights Commission

66. When we first launched this inquiry, the Equality and Human Rights Commission (the Commission/the EHRC) told us that it would prepare a written submission outlining its position and responding to our terms of reference. However, on the deadline day for written responses to our terms of reference, we received a letter from the Commission which said that it was "unable to provide a full written submission to the inquiry".¹¹¹ It

104 Cabinet Office, Ministerial Code, August 2019, p1.

105 Letter to the Speaker, Chair of the Women and Equalities Committee, 30 June 2021; Letter to the Leader of the House, Chair of the Women and Equalities Committee, 30 June 2021; Letter to the Chair of the Liaison Committee, Chair of the Women and Equalities Committee, 30 June 2021.

106 Letter from the Minister for Equalities to the Chair of the Liaison Committee, 14 July 2021.

107 'Exclusive: Government creating 'hostile environment for LGBT+ people says adviser as she quits over conversion therapy, ITV, 11 March 2021.

108 Women and Equalities Committee, LGBT Advisory Panel, Q8.

109 As above, Q13.

110 As above, Q12.

111 Letter to the Chair of the Women and Equalities Committee from the former Chief Executive of the EHRC, 27 November 2020.

explained that whilst reform was an important topic for the transgender community, “given the UK Government’s recent announcement that it will not be pursuing legislative reform at this stage, we have decided to focus resource on other pressing issues”.¹¹²

67. The Commission’s decision to not provide written evidence was commented upon by one of our witnesses. Judith Green told us:

The EHRC is a really important body. It is important that we have a national human rights institution and a body whose remit is to promote equalities and uphold the Equality Act, but we are very disappointed that it had not chosen to give evidence to this inquiry.¹¹³

68. On 9 December 2020, our Chair responded to the Commission’s letter, outlining the importance of hearing from the Commission and inviting them again to make a written submission and stating our intention to invite them to give oral evidence.¹¹⁴ Eventually the Commission accepted our invitation to give oral evidence to us on 16 June 2021. During that session, the Chair of the Commission, Baroness Falkner of Margravine, told us that the Commission had “made it clear that we had very little to say on the matter”.¹¹⁵ She continued:

The Government have indicated that they are not moving to change legislation, therefore nothing has changed and there is very little that we find we would wish to say on this. However, Madam Chair, you have insisted and therefore we sit before you. I put those comments into context because I do not wish to appear at all uncooperative. One of the reasons that we did not wish to appear in front of you in this inquiry is because we feel that a lot of the ground that you may wish to cover is ground better covered by Government than by a regulator, whose duty it is simply to enforce the law as we find it.¹¹⁶

69. The Commission does have a role as a regulator and enforcer. It also, however, has other critical functions set out in the Equality Act 2006.¹¹⁷ The EHRC itself, acknowledges these other roles on its website:

- **A catalyst for change:** Enabling and encouraging improvement by bringing people together to devise solutions, and building capacity in other organisations to help them to effect change.
- **An information provider:** Helping people understand their rights and responsibilities and improve compliance with the law.
- **An influencer:** Using our legal expertise, research, insight and analysis to influence public policy and inform debates.

112 Letter to the Chair of the Women and Equalities Committee from the former Chief Executive of the EHRC, 27 November 2020.

113 Q160.

114 Letter from the Chair of the Women and Equalities Committee to the Chief Executive of the Equality and Human Rights Commission, 9 December 2020.

115 Q219.

116 Q219.

117 The Equality Act 2006.

- **An evaluator:** Monitoring the effectiveness of the laws protecting people’s rights to equality and human rights, and measuring progress in society.¹¹⁸

70. Some stakeholders felt the Commission had fallen short in fulfilling its role as ‘a catalyst for change’, with Judith Green stating that “the EHRC and other organisations that have a duty to foster good relations have not opened up that space”.¹¹⁹ Other stakeholders also argued that the EHRC has failed in its role as an ‘information provider’. In 2018 our predecessor Committee called on the EHRC to develop “a dedicated Code of Practice” in relation to the Equality Act’s single-sex and separate-sex exceptions, including how those exceptions apply to those with the protected characteristic of gender reassignment (we examine the issue of available guidance in Chapter 3 of this report).

71. Several groups that might be considered key stakeholders for the Commission described their disappointment at its overall lack of engagement on the matter of GRA reform. Cat Burton from GIRES told us that “engagement is perhaps less than we would have hoped for”.¹²⁰ Lui Asquith from Mermaids elaborated further, telling us:

At Mermaids, we hear about a feeling of a lack of advocacy from the commission. Obviously, the commission is commissioned to stand up for those with protected characteristics, one of which is those subject to the gender reassignment section. Quite frankly, those who are protected by that section currently do not feel as though the commission is standing up for them as much as they would like. There is huge disappointment, but there is a commitment to wanting to work with the commission and change that. I suppose the feeling around the commission, certainly from the trans population, will only change through public action. We hope to see that in the near future.¹²¹

This was echoed by Nancy Kelley from Stonewall who said that, whilst she recognised the Commission had done good work in this space, Stonewall “would love for it to engage more wholeheartedly in the defence of trans people”.¹²²

72. When we put some of the concerns raised by our stakeholders to the Chair of the Commission, she told us:

We note some criticism from women’s groups, as well as LGBTQ and trans groups. [...] One of our strategic priorities is to become a more delivery-focused regulator. That involves probably undertaking more litigation and expending more resources in litigation. There are other measures, but it is only litigation, ultimately, that changes people’s lives on the ground. We unequivocally reject those criticisms.¹²³

73. Ministers are fundamentally accountable to Parliament and have a duty to make themselves available for scrutiny by the House and its committees. The same applies, with certain qualifications, to other public servants and public officeholders. We are deeply disappointed by the approach taken by both the Government Equalities Office

118 Equality and Human Rights Commission, What we do [accessed 22 July 2021].

119 Q126.

120 Q115.

121 Q115.

122 As above.

123 Q221.

and the Equality and Human Rights Commission to this inquiry. We understand that the subject of Gender Recognition Act reform is controversial, contested and difficult. That does not mean that key bodies should shy away from engaging with the challenges it presents, or from connecting with stakeholders who hold views on the matter. Indeed, it makes it even more important that we should do so. The refusal of Government Equalities Office Ministers to attend our evidence session and properly engage with our inquiry is inexcusable. We appreciate that the Equality and Human Rights Commission has a core function as an enforcer. It also, however, has a responsibility to provide information, influence policy and be a catalyst for change. In our view, the Commission has neglected to adequately fulfil these functions in relation to Gender Recognition Act reform. It is a matter of deep regret that the Government and its public bodies have chosen to evade Parliamentary scrutiny on this contentious subject.

Conclusion

74. The Government Equalities Office response to the consultation on the Gender Recognition Act was minimal and ignored areas where there was a majority in support for change. The Minister for Women and Equalities committed to reducing the fee, placing the process online and opening at least three new gender clinics in 2020. As the opening of the pilot clinics was already being driven by NHS England, the Minister truly only committed to reducing the fee and placing the process online.

75. We remain frustrated at the degree of engagement by the Government Equalities Office and the Equality and Human Rights Commission. These key bodies have a vital role to play in enforcing and enacting real change in this area. They should be willing to participate in ongoing discussions with this Committee about the concerns of its stakeholders. We condemn the negligible engagement with our inquiry by both the Government Equalities Office Ministers and the EHRC, and the delay in response to the consultation which further polarised and toxified the debate. We call on the Ministers of the Government Equalities Office and the leadership of the EHRC to restate their commitment to cooperating with this Committee in all future inquiries. We also call on the Leader of the House, the Speaker of the House and the Chair of the Liaison Committee to respond to the concerns we have raised and take action to ensure that the Ministers comply in future with these accountability procedures and the Ministerial Code.

4 Chapter 2: The Gender Recognition Act 2004

76. The Gender Recognition Act (GRA) 2004 governs the process by which a person can gain legal recognition of their acquired gender, by obtaining a Gender Recognition Certificate (see Box 1). According to the Government Equalities Office (GEO), since the GRA came into effect in 2005, 5,677 GRCs have been granted (as of June 2020).¹²⁴ Whilst the GEO states that “no robust data on the UK trans population exists”, it tentatively estimates that there are approximately 200,000- 500,000 trans people in the UK.¹²⁵ This shows there could be a significant disparity between the number of transgender people in the UK and the number of transgender people who have opted to for a gender recognition certificate.

77. The GRA consultation analysis document showed that 94.5% of transgender people who responded to the question about Gender Recognition Certificates (GRCs) indicated that they had not applied for one.¹²⁶ Some of the reasons given for not applying for a GRC included, but are not limited to:

- that the application process was “dehumanising”, and “overly bureaucratic, time consuming and expensive”;¹²⁷
- issues with obtaining gender dysphoria diagnosis and medical appointments;
- issues with marriage/spousal declaration; and
- perceptions application would be rejected.¹²⁸

Despite these responses, the Minister for Equalities told us that, “[t]he requirements set out in the legislation are fundamental safeguards to ensuring a robust gender recognition system, which is fit for purpose”.¹²⁹

78. This chapter examines some of the provisions within the GRA. These include: the diagnosis of gender dysphoria, the requirement to live in the acquired gender, the statutory declaration, the spousal consent provision, the age limit to apply for a GRC, the role of the Gender Recognition Panel and the privacy and disclosure of information provision.

The diagnosis of gender dysphoria

79. According to the NHS, “gender dysphoria is a term that describes a sense of unease that a person may have because of a mismatch between their biological sex and their gender identity”.¹³⁰ In order to receive a GRC, applicants must have a diagnosis of gender dysphoria and must provide two medical reports which detail and evidence this diagnosis

124 GRA2016.

125 Government Equalities Office, *Trans people in the UK*, 2018, p1.

126 Professor Daniel King, Professor Carrie Paechter, Dr Maranda Ridgway and researchers at Nottingham Trent University, *Gender Recognition Act: Analysis of Responses*, (September 2020), p32.

127 As above, p33–34.

128 Professor Daniel King, Professor Carrie Paechter, Dr Maranda Ridgway and researchers at Nottingham Trent University, *Gender Recognition Act: Analysis of Responses*, (September 2020), p35.

129 Letter to the Chair of the Women and Equalities Committee, 14 July.

130 NHS, *Overview: Gender dysphoria* [accessed 25 October 2021].

and any other treatment the applicant has undergone.¹³¹ Gender dysphoria is not a mental illness, but some believe a diagnosis of gender dysphoria comes with the stigma of a mental health condition.¹³² Because of this, and a number of other factors, many transgender people argue that the requirement of a diagnosis of gender dysphoria should be removed from the process of obtaining a GRC. Removing this diagnosis will bring the legal recognition process closer to a system of self- declaration.¹³³

80. Self-declaration models, or non-assessment-based models, exist in several countries including the Republic of Ireland, Denmark and Argentina.¹³⁴ As noted by the Government in 2018, “recently, countries are moving towards a non-assessment based model”,¹³⁵ including Scotland where proposals have been made for a system of self-declaration to be introduced, under its draft Gender Recognition Reform (Scotland) Bill (the draft Bill).¹³⁶ A self-declaration model essentially allows a person to legally change their sex, without providing medical evidence, by signing a statutory declaration or written statement (depending on the country and its requirements) which affirms their commitment to remain in that sex. Such a system de-medicalises the process. Whilst many transgender people support a system of self-declaration, concerns have been raised about the potential risks such a system could pose to natal women, especially in relation to safety in single-sex spaces.

81. When the Government first announced its consultation into the reform of the Gender Recognition Act, the then Prime Minister, the Rt Hon Theresa May MP, said that she wanted to “see a process that is more streamlined and de-medicalised - because being trans should never be treated as an illness”.¹³⁷ The current administration did not bring forward proposals to de-medicalise the process, despite 64.1% of respondents to this question in the GRA consultation, supporting its removal in the future.¹³⁸

82. Some of the key issues respondents to the Government’s consultation expressed about the current requirement for a diagnosis of gender dysphoria, included gender dysphoria not being a medical issue, and the diagnosis making applicants dependent on a third party.¹³⁹ This was reiterated to us in both written and oral evidence.

131 Gender Recognition Act 2004.

132 Professor Daniel King, Professor Carrie Paechter, Dr Maranda Ridgway and researchers at Nottingham Trent University, *Gender Recognition Act: Analysis of Responses*, (September 2020), p43.

133 In this report we use the term ‘self-declaration’ when referring to a non-assessment, or minimal assessment, based process for legal recognition. We are aware that some people use alternative terms such as “self-identification” and “self-determination”

134 Minister for Women and Equalities, *Reform of the Gender Recognition Act - Government consultation*, July 2018, p.26.

135 As above.

136 Scottish Government, *Gender Recognition Reform (Scotland) Bill: A consultation by the Scottish Government*, December 2019.

137 ‘Government Announces Plans to Reform Process of Changing Legal Gender’, Government Equalities office and The Rt Hon Penny Mordaunt MP, press release, 3 July 2018.

138 Professor Daniel King, Professor Carrie Paechter, Dr Maranda Ridgway and researchers at Nottingham Trent University, *Gender Recognition Act: Analysis of Responses*, (September 2020), p41.

139 As above, p42–44.

83. Nancy Kelley from Stonewall told us that the requirement of a dysphoria diagnosis from a GP or specialist, “reinforces the false belief that being trans is a mental illness”.¹⁴⁰ Lui Asquith from Mermaids told us that the “current system requires one to experience a distress in order to be legally recognised”.¹⁴¹ They said:

We require someone to feel an anxiety, and to be in persistent and consistent distress, to be able to change their legal gender. [...] Not everybody experiences dysphoria in a way that satisfies the diagnosis criteria.¹⁴²

Nancy Kelley also told us why a diagnosis of gender dysphoria is reliant on third parties:

To fulfil the requirement of having that diagnosis, an applicant has to show that that diagnosis has come from a registered medical practitioner or a registered psychologist. Our understanding is that there are only 96 of those in the UK at the minute. You either have to navigate this very long waiting list to see someone on the NHS, which is years in some cases, or you have to pay.¹⁴³

84. We were also told that the requirement for a diagnosis of gender dysphoria is becoming outdated now that the World Health Organisation (WHO) has updated its global manual of diagnoses (ICD-11). In 2019, the WHO removed ‘gender incongruence’ from the chapter on ‘Mental and behavioural disorders’ and placed it into the new ‘Conditions related to sexual health’ chapter.¹⁴⁴

In oral evidence, Professor Stephen Whittle argued:

From 2022, the diagnosis of gender dysphoria that is required by the Act should no longer exist. Our obligation under the World Health Organization is to move to the new standards for diagnosis in which gender dysphoria has been extinguished and there is now a new diagnosis, under a separation non-mental health condition chapter, of gender incongruence. We will be, and I feel we already are, asking clinicians to diagnose something that no longer exists in the medical references.¹⁴⁵

140 Q97.

141 Q97.

142 As above.

143 Q97.

144 Joint Statement on ICD-11 process for trans & gender diverse people - GATE, May 2019

145 Q3.

85. Professor Alex Sharpe, Professor at the School of Law in the University of Warwick, reinforced this by highlighting the position of The World Professional Association for Transgender Health (WPATH), stating that the diagnosis of gender dysphoria “runs against the grain of current medical best practice globally”.¹⁴⁶ She explained:

We can look at WPATH, an organisation that is often neglected in debates and does not ever seem to be consulted, even though it is quite clearly the lead medical body in this field. In 2017, it issued a gender identity recognition statement, making clear that, in its view, gender recognition as a legal matter should be completely uncoupled from any of these medical considerations and it was contrary to good medical health and wellbeing to so require.¹⁴⁷

86. In June 2020, the European Commission published ‘Legal gender recognition in the EU’, in which the UK was considered one of the countries “imposing intrusive medical requirements”.¹⁴⁸

Self-declaration

87. Some witnesses argued that a system of self-declaration should be introduced in the UK, similar to that adopted in other countries. Professor Sharpe said:

There are 20 countries around the world that have already done it, not to mention the American states, Canadian provinces and Australian states that have already taken this step. They have not had significant problems, yet in Britain we seem to have this panic. It is absurd.¹⁴⁹

88. Dr Ruth Pearce, Research Coordinator for the Trans Learning Partnership and Visiting Researcher in the School of Sociology and Social Policy in the University of Leeds, argued that self-declaration already exists in the UK to some extent:

Trans people already access various forms of legal, social or corporate recognition on the basis of self-identification, whether it is the sex marker on a driving licence, on bank details or on NHS records, which we can change on the basis of simply writing a letter and requesting a change.¹⁵⁰

She continued by saying “this existing self-declaration, in fact, is generally required as evidence for a gender recognition certificate” through the requirement for applicants to have lived two years in their acquired gender.¹⁵¹

89. However, other witnesses highlighted concerns if the diagnosis of gender dysphoria was removed, and a system of self-declaration was implemented. Dr Nicola Williams told us:

146 As above.

147 Q3.

148 European Commission, *Legal gender recognition in the EU: The journeys of trans people towards full equality*, June 2020, p.198.

149 Q6.

150 Q17.

151 As above.

The issue with self-identification is that it would open up the ability for any male, for whatever reason, to obtain a birth certificate to say that that person was born female. That is, in essence, the problem with the gender recognition certificate: it allows someone to change their birth certificate, and not only to do that but to hide the fact that they have done that. On paper, someone who was born male would appear to have been born female.¹⁵²

She continued:

There is a fundamental problem there with the way that single-sex spaces work, because the Equality Act provides women with the opportunity to have female-only spaces but based on their birth sex. It provides a way for spaces to be reserved for people who are born female. If there is then also a separate law that allows people to hide the fact of their birth sex, there is an incompatibility. We cannot have both laws without a conflict. We have the single-sex spaces based on birth sex, but there is another law that allows birth sex to be hidden. That means that, although on paper, it looks like women have a law on single-sex spaces, they cannot implement it.¹⁵³

90. Professor Rosa Freedman, Professor of Law, Conflict and Global Development at the University of Reading, said:

The key concerns that women raised around self-ID were the fact that the policy being proposed did not uphold the single-sex exemptions in the Equality Act. There was no proposal as to how these two would work together and this would then allow people to self-ID and access women's spaces.¹⁵⁴

We consider single-sex and separate-sex exceptions in detail in Chapter 3 of this report.

91. Another concern raised by Professor Freedman focused on "the lack of legal definitions". She explained:

In other countries where there are self-ID regimes, there are usually very strong sets of laws and definitions that explain how self-ID, gender identity and trans-genderism, or whatever term you want to use, operate alongside sex. In Ireland, there is this self-declaration scheme. At the same time, institutions, whether they are schools, prisons or any other institution, are able to decide whether they will remain sex segregated or whether they will be gender identity segregated. What we had in the proposals over here was saying, "Let us allow self-ID but not think through how this would operate in practice".¹⁵⁵

152 Q152.

153 Q152.

154 Q20.

155 Q20.

92. We asked the Equality and Human Rights Commission about its position on self-declaration. Baroness Falkner, the Chair of the Commission, told us:

On the whole, we are looking at where the WHO is going with that change in classification. We will be making our own mind up about that as we go forward. At the moment, our current policy is that we recommend to Government that they should not have that diagnosis.¹⁵⁶

93. We asked the then Parliamentary Under Secretary of State (Minister for Prevention, Public Health and Primary Care), Jo Churchill MP, what discussions she had with the GEO prior to the Government's announcement on the reform of the GRA. She explained that one area she had spoken to GEO Ministers about was the diagnosis of gender dysphoria. She said:

We were asked to advise on the potential changing of wording within the Gender Recognition Act, from "gender dysphoria" to "gender incongruence". We advised that, if they wished to keep the current medical process within the GRA, then they had to keep the wording as "dysphoria". It is a recognised medical term, and therefore there was not scope to make that change. The wording within the Act and the decision to have a medical process within that is a matter for the GEO. [The Department of Health] is neutral, I would argue, on whether there is a need for that medical diagnosis.¹⁵⁷

When we asked her why the GEO chose not to bring forward reform in this area, she told us:

I am really sorry to sound like a stuck record, but that is GEO policy. As I have said, we have a neutral stance on whether it is required. The focus on this Department is on delivering healthcare.¹⁵⁸

94. As both GEO Ministers refused to give oral evidence, our Chair wrote to the Minister for Equalities after this session to ask some of the questions we would have liked to have asked her in person, one of which included why the GEO decided against the removal of gender dysphoria.¹⁵⁹ The Minister responded saying:

As set out in the Government response to the GRA consultation, we closely considered the evidence provided, the views expressed and concerns raised on all the issues, including the aspects you have highlighted. We consider that changing one's legal sex is not a decision to take lightly and appropriate safeguards are needed to support this process. After fully considering the evidence provided, it was the Government's view that the balance in the current legislation is correct - it provides checks and balances but also support for people who want to change their legal sex.¹⁶⁰

156 Q233.

157 Q258.

158 Q271.

159 Letter from the Chair of the Women and Equalities Committee to the Minister for Equalities, 29 June 2021.

160 Letter from the Minister for Equalities, 14 July 2021.

95. Written evidence submitted to us by the Rt Hon Theresa May MP, Prime Minister at the time the GRA consultation was launched, stated that whilst the “measures announced by the Government will go some way to helping”, she “would like to see further action taken to create a process that is more streamlined and de-medicalised.”¹⁶¹

96. **We believe that the requirement of a diagnosis of gender dysphoria in order to obtain a Gender Recognition Certificate should be removed from the Gender Recognition Act, moving the process closer to a system of self-declaration. The legal recognition process should not involve medical scrutiny but strong legal safeguards. Appropriate safeguards are essential to ensuring that the rights of natal women and the use of the single-sex and separate-sex exceptions in the Equality Act 2010 are protected. Therefore, it is appropriate to retain the statutory declaration, as well as introduce additional legal tests. It would also be possible to police statutory declarations more strictly, and to bring prosecutions for fraudulent declarations if it becomes apparent that the person had no real intention of living in the acquired gender.**

97. *The Government should remove the diagnosis of gender dysphoria from the Gender Recognition Act by 2023, reflecting the support for this in responses to its own consultation. It must ensure that appropriate safeguards are in place when doing so, including retaining the requirement for a statutory declaration. Robust guidance on how a system of self-declaration would work in practice should also be developed. For example, male prisoners with a record of sexual assault or domestic violence, who self-identify as a woman, should not be transferred to a woman’s prison.*

Living in the acquired gender

98. As well as providing medical evidence to the Gender Recognition Panel, applicants must also provide proof of having lived full-time in their acquired gender for at least two years before the date of application.¹⁶² Applicants will have to provide a selection of documents, including but not limited to, driving licenses, passports, bank statements and utility bills, to the Gender Recognition Panel to show that they have been living in their acquired gender and using their new name (if relevant).¹⁶³

99. One of the areas of focus in the Government’s GRA consultation was on the requirement to live in the acquired gender. The analysis of consultation responses highlighted that the Government wanted to “explore ways of making the gender recognition process less bureaucratic and intrusive for applicants” and “to better understand people’s views on the effect of reducing or removing this requirement”.¹⁶⁴ When respondents were asked whether or not they agree that an applicant should have to provide evidence of having lived in their acquired gender for a period of time before applying for a GRC, of those that responded, 78.6% said no.¹⁶⁵ Of those that responded no, some of the main arguments made included; the two-year time period is too long, the requirement is “humiliating and dehumanising” and “it is difficult to obtain the necessary documentation”.¹⁶⁶

161 GEO0057.

162 Gender Recognition Act 2004.

163 Professor Daniel King, Professor Carrie Paechter, Dr Maranda Ridgway and researchers at Nottingham Trent University, Gender Recognition Act: Analysis of Responses, (September 2020), p52.

164 As above.

165 As above.

166 As above, p58–59.

100. This was echoed in oral evidence we received to this inquiry. Dr Jane Hamlin from the Beaumont Society, told us that two years was an arbitrary amount of time, and could be unnecessarily long.¹⁶⁷ Dr Ruth Pearce reiterated this:

I do not believe there should be a two-year requirement. It does not make any sense for there to be an arbitrary time requirement. Ultimately, that is what it is, it is arbitrary.¹⁶⁸

101. Cat Burton from GIRES told us that instead of a two-year period, there should be a cooling-off period from the date of the application.¹⁶⁹ She gave an example of the difficulty in providing the necessary documentation to satisfy the acquired gender requirement:

When I applied for my gender recognition certificate, my application filled the box that five reams of paper comes in, because part of the requirement for two years of lived experience is to justify it with every single piece of paper that has your name on it for that entire period of time. [...] It got knocked back. The reason it got knocked back is that I had sent them two years' worth of documentation, but I had prepared it a month before the date on the application. That final month between the date I had put this package together and the date on the application was not justified by the documents.¹⁷⁰

102. Women's rights groups and trans groups that we heard from argued that the requirement to live in the acquired gender relies on embedding gender stereotypes, which can have a negative impact on women and on trans people. Karon Monaghan QC, a barrister from Matrix Chambers, told us:

I think there is a danger of entrenching stereotypes. I don't know what living as a woman is, apart from name. I would describe myself as a female and a woman but I don't know how - apart from the social attributes like not wearing makeup, not wearing skirts, whatever - I don't know how, otherwise, that would be assessed except by reason of entrenching social ideas, social norms about men and women. So, I think that is problematic. That's problematic, because of the impact that has on women. But I also think its problematic because, frankly, I don't understand why you should have to show that you've lived in the gender that you are hoping to acquire, or aspiring to acquire, for two years.¹⁷¹

Similarly, Judith Green from Woman's Place UK told us:

Woman's Place UK was part of that 78.6% of respondents who think that the living in acquired gender requirement should be removed. That is because we do not agree that this idea of living in a gender makes any sense. It inscribes sexism and sexist stereotypes into law. There is no particular correct way to live as a man or as a woman, so that part of the law does not make any sense.¹⁷²

167 Q99.

168 Q7.

169 Q99.

170 As above.

171 Q54.

172 Q133.

103. Some people disagree with this assessment. The analysis of consultation responses highlighted that, of the 21.4% of respondents who agreed with the requirement, the main arguments made were that it “gives protection to society” and demonstrates “sincerity and commitment”.¹⁷³ This was echoed by one of our witnesses, Raquel Rosario-Sanchez from FiLia, who said:

We disagree with Woman’s Place UK on this issue. We understand that the requirement to live in the acquired gender is a sexist concept. [...] At the same time, we go back to what the purpose of the gender recognition certificate is. It is about addressing those who have been diagnosed with severe gender dysphoria. We agree that there has to be some sort of commitment. We want clear evidence of a demonstratable commitment to live in the concept of an acquired gender.¹⁷⁴

104. There are significant problems with the requirement to have lived in the acquired gender. There is no clear, accepted or agreed definition of what living like a man or a woman is. This makes it difficult for a person to demonstrate whether they are masculine or feminine enough to obtain a Gender Recognition Certificate. The requirement also risks entrenching outdated and unacceptable gender stereotypes. The Government should remove the requirement to have lived for a set period of time in the acquired gender from the gender recognition process immediately.

The statutory declaration

105. Section 3(4) of the GRA requires applicants to include a statutory declaration as part of their application for a certificate.¹⁷⁵ The declaration, which must be witnessed by a solicitor, magistrate or commissioner for oaths, states the applicant’s intention to live permanently in their acquired gender until death. It is a criminal offence, punishable by up to two years in prison or an unlimited fine or both, to knowingly and wilfully make a false statutory declaration.¹⁷⁶ The analysis of responses to the GRA consultation said the statutory declaration “could be seen as a minimum safeguard for any system, in that it provides a level of assurance that the application is genuine, with legal penalties for false or malicious applications”.¹⁷⁷

106. As part of the Government’s GRA consultation, respondents were asked whether the statutory declaration should be retained, regardless of what other changes are made to the gender recognition system.¹⁷⁸ Some 83.5% of those who responded to this question stated that it should be retained, with 16.5% stating it should not.¹⁷⁹ Some 52.8% of those who were in favour of retaining the declaration did not agree with the current wording of the declaration which states that the applicant intends to “live permanently in the acquired gender until death”.¹⁸⁰

173 Professor Daniel King, Professor Carrie Paechter, Dr Maranda Ridgway and researchers at Nottingham Trent University, Gender Recognition Act: Analysis of Responses, (September 2020), p53–54.

174 Q99.

175 The Gender Recognition Act 2004.

176 Perjury Act 1911.

177 Professor Daniel King, Professor Carrie Paechter, Dr Maranda Ridgway and researchers at Nottingham Trent University, Gender Recognition Act: Analysis of Responses, (September 2020), p59.

178 As above.

179 As above.

180 Professor Daniel King, Professor Carrie Paechter, Dr Maranda Ridgway and researchers at Nottingham Trent University, Gender Recognition Act: Analysis of Responses, (September 2020), p5.

107. Robin White, a barrister from Old Square Chambers, told us that the part of the clause that stipulated ‘until death’ was sometimes referred to as the ‘sign in blood clause’ because that is what the wording reads like”.¹⁸¹ She continued:

The stats on detransition are that between 1% and 3% of people who transition express at some point some degree of regret. That is not always because they want to go back to the previous gender, but because they find the process of transition really difficult and tough. There is no doubt about that. Although it is right that someone, at the point they sign, might have that intention, they can run into difficulty in life and their intention can change.

She suggested there should be some route back for those people who transitioned but then changed their mind at a later date.

108. Dr Nicola Williams from Fair Play for Women said:

It is right that it is a commitment for a permanent change, but there are an increasing number of people who have de-transitioned and who may have GRCs, and they should not be trapped in a legal decision if it no longer applies to them.¹⁸²

109. Some witnesses told us that the current wording of the statutory declaration was necessary. Naomi Cunningham, barrister at Outer Temple Chambers and representing Legal Feminist, argued:

We don’t think that the “until death” requirement should be removed. The whole justification for the availability of gender reassignment always was that there is a small minority of people who have such profound gender dysphoria, or such a profound conviction that they’re physiologically the wrong sex, that their best hope of flourishing as human beings is some form of transition. That, of course, is understood and accepted, but transition does make quite serious demands on the rest of society. It is fair that those demands should not be lightly made.¹⁸³

110. The requirement for an applicant legally transitioning to complete a statutory declaration is an essential safeguard which ensures that they are doing so with genuine intent. We believe this requirement must be retained. We accept that there are cases where some individuals might regret their decision to legally transition. We recommend that the wording of the statutory declaration be amended to permit people who have legally changed their gender identity to reverse their decision, should they so choose by removing the ‘until death’ requirement.

Spousal consent

111. Following the enactment of the Marriage (Same Sex Couples) Act 2013, which legalised marriage between same sex couples, the GRA was amended to include a spousal

181 Q56.

182 Q136.

183 Q56.

consent provision, referred to by some people as the spousal veto.¹⁸⁴ If the spouse of the person transitioning consents to the marriage or civil partnership continuing, it is now possible for a transgender person to gain a full GRC whilst remaining married. Prior to the Marriage (Same Sex Couples) Act, when same sex couples could not marry, this was not possible. The spouse of the transitioning partner has to complete a statutory declaration stating that they agree to the marriage/civil partnership continuing after the applicant has completed their legal transition. Applicants who do not have their spouse's consent, may be awarded an interim GRC which can be used by either party as grounds to annul the marriage.¹⁸⁵

112. In the GRA consultation paper, the Government sought views on whether respondents agreed with the spousal consent provisions. 84.9% of those who responded to the question, indicated that they did not agree with the current provisions.¹⁸⁶ Some of the key issues highlighted included that this provision “reduces the autonomy of the trans person”, “difficulty leaving an abusive relationship” and that “spouses should be made aware, but not required to give consent”.¹⁸⁷

113. A key concern raised in oral evidence was the potential for this requirement to be misused by abusive partners. Cat Burton from GIRES told us that these provisions have “the potential to hold the trans person hostage”.¹⁸⁸ Similarly Dr Jane Hamlin from the Beaumont Society, argued that “all individuals should have autonomy over their own lives” and “someone else should not be able to shackle them in this sort of way”.¹⁸⁹ Dr Ruth Pearce told us:

The anti-violence charity Galop has noted that this provision, as it is currently worded, has the potential to offer abusive partners a tool for control that can be specifically wielded against trans people, by offering them power over their partner's ability to obtain a form of legal recognition.¹⁹⁰

114. We were also told that with the introduction of the Marriage (Same Sex Couples) Act, there is no need for this provision to exist. Prior to this Act, it was not possible for those who obtained a GRC to remain married because same-sex marriage was illegal. However, now that this Act has legalised same-sex marriage, some witnesses argued that this provision is outdated. Professor Stephen Whittle told us:

With the same-sex marriage Act now being in force, there is no necessity for this. We should not call it spousal consent. It has never been spousal consent. It has been about informing the spouse of a change in their legal contract. If we think about it in that way, the real requirement is making sure that the spouse is informed and has the opportunity to change their relationship to that legal contract.¹⁹¹

184 Gender recognition and the rights of transgender people, Briefing Paper 08969, House of Commons Library, 22 July 2020.

185 Gender Recognition Act 2004.

186 Professor Daniel King, Professor Carrie Paechter, Dr Maranda Ridgway and researchers at Nottingham Trent University, Gender Recognition Act: Analysis of Responses, (September 2020), p65.

187 Professor Daniel King, Professor Carrie Paechter, Dr Maranda Ridgway and researchers at Nottingham Trent University, Gender Recognition Act: Analysis of Responses, (September 2020), p66–67.

188 Q101.

189 As above.

190 Q14.

191 Q14.

Similarly, Nancy Kelley from Stonewall said:

The original reason or rationale behind spousal veto was in part to do with homophobia; it was a relic of pre-equal marriage times, based on the assumption that finding yourself as a woman married to another woman without meaning to was always an undesirable outcome.¹⁹²

115. We also heard arguments against the removal of this provision. These arguments centred around marriage being a legal contract between two consenting parties, which cannot be changed without the consent of both parties. For example, in their written submission, Trans Widow Voices, a campaign group, argued that it protects heterosexual spouses “from the possibility of being trapped, in legally same sex marriages that they did not sign up to”.¹⁹³ It argued that the provision “provides the option of annulment for women who are not able to divorce for religious or cultural reasons”.¹⁹⁴ Similarly, Raquel Rosario-Sanchez from FiLia argued:

The spousal exit clause is about taking into account that the partner who is not transitioning has a right to have a say in their own identity. The idea that they should not have that right when it comes to issues of their marriage and their relationship could lead to an abusive situation, in which a partner wants to modify something that is intrinsic to the contract that they entered into, but it somehow prevented from doing so.¹⁹⁵

116. We have carefully considered the arguments for and against the spousal consent provision. The choice to transition by one spouse can, for some, fundamentally change the nature of the relationship and the marriage contract. The spouse of the person transitioning must be informed of their spouse’s decision to change their legal sex. We understand the importance of the spousal consent provision and the availability of the option for annulment for some individuals, including those from religious communities where divorce and same-sex marriage is not regarded favourably. On balance, we do not believe that the lack of consent from a spouse to remain in the marriage after the legal transition should lead to delay in an individual obtaining a full Gender Recognition Certificate. The current system places the burden for obtaining consent, or an annulment, on the parties to the marriage or civil partnership through the issue of an interim certificate. This has created delay and unfairness, which has led to trans people saying that this denies their basic rights and agency over their own bodies, and places it in the hands of their spouses.

117. We recommend the requirement for spousal consent should be removed. When an application is made, the non-transitioning spouse should be notified by the body processing the application (currently the Gender Recognition Panel) that their transitioning spouse has applied for a Certificate. The non-transitioning spouse should be given the option to either remain married/in a civil partnership or have the marriage/civil partnership annulled. If the spouse opts for an annulment, or does not respond, the body granting the certificate should issue an annulment at the same time as a full Gender Recognition Certificate, subject to appropriate safeguards. The transitioning spouse should also have the option to annul the marriage or partnership but not before

192 Q101.

193 GRA2029.

194 As above.

195 Q144.

the granting body is satisfied that the non-transitioning spouse is aware of the process. The body issuing the certificate will need to be given the power to issue annulments. Any connected matters, such as applications by either spouse for a financial order, should be dealt with by the family courts.

Age limit

118. Only those over the age of 18 can apply for a Gender Recognition Certificate.¹⁹⁶ There has been much public debate over whether the age limit should be lowered. At the moment, young people below the age of 18, who may have gender dysphoria, will usually be referred to a Gender Identity Development Service (GIDS) by their GP. Depending on the results of their assessment, their age and other factors, a number of options may be offered to them including therapy, hormone blockers and cross-sex hormone treatment.¹⁹⁷

119. Lui Asquith from Mermaids told us:

We believe that those who are under 18 should also have access to legal gender recognition. From a very clinical perspective, it would simply allow this system to align with other state systems, the obvious example being the passport system. If a young trans binary individual wishes to change their gender marker, there is the opportunity for them to do that. This system is currently incompatible with other state systems.¹⁹⁸

They continued by setting out what impact the lack of legal recognition can have on young trans people:

The indirect impact of the current system not acknowledging young people strikes to the heart of the well-being of young trans, non-binary and gender variant people. It has an impact on their everyday because it simply increases the risk of young people being outed unwantedly in their everyday life, school settings, healthcare settings and general social settings. This exposes an individual to a risk of harm, harassment and discrimination that we simply should not allow for in wider society.¹⁹⁹

120. Other stakeholders argued that the age limit should not be lowered. Raquel Rosario-Sanchez argued:

Our position at FiLia is that the age limit should not be lowered, in part because we know that there is neuroscientific research that points out that the brain does not fully develop until people are around 25 years old. [...] There is nothing preventing young people from expressing themselves in the way that they see fit. When it comes to the intervention of the state, which is what legislation does, we have to be a little more careful and examine other factors.²⁰⁰

196 Gender Recognition Act 2004.

197 Gender recognition and the rights of transgender people, Briefing Paper 08969, House of Commons Library, 22 July 2020.

198 Q105.

199 As above.

200 Q141.

The GEO did not dedicate a question on under-18s in its GRA consultation. In its written evidence to our inquiry, it made it clear that the minimum age limit “will not be changed”.²⁰¹ It said:

The age of 18 is widely recognised as the age at which one becomes an adult and gains full citizenship rights; we feel this is the appropriate point at which an individual should be able to make such a major decision, in their own right, on changing their legal sex. It is therefore important that under-18s are properly supported in line with their age and decision-making capabilities.²⁰²

121. In Autumn 2020, NHS England and NHS Improvement commissioned The Independent Review of Gender Identity Services for Children and Young People (The Cass Review) “to make recommendations about the services provided by the NHS to children and young people who are questioning their gender identity or experiencing gender incongruence”.²⁰³ This Review recognised the significant increase in the number of referrals to the GIDS and aims to explore how the NHS should appropriately assess, diagnose and care for children and young people presenting signs of gender identity issues.

122. We agree with the Government Equalities Office that the age of 18 is the appropriate age at which an individual should be able to decide on whether they want to apply for legal gender recognition. Part of the process of applying for legal recognition is making a statutory declaration. It would not be appropriate to expect a minor to accept that responsibility. The age of 18 is a suitable age for a person to consider the current and future ramifications of legally transitioning and to be asked to make a statutory declaration. This is consistent with the law relating to other long-term, legally binding undertakings.

123. We are aware that there has been a significant increase in the number of referrals to Gender Identity Development Services in recent years. We strongly believe that improved support is needed to help young people seeking to transition, especially mental health support. Young people should have access to services which work in tandem with gender identity clinics and allow them to discuss and explore their feelings about transitioning in detail. We welcome the work being undertaken in the Cass Review and look forward to reading its findings.

The Gender Recognition Panel

124. In order to apply for a GRC, individuals must submit evidence to a Gender Recognition Panel, which makes the decision on whether or not to grant a GRC.²⁰⁴ The Panel consists of both legal and medical professionals “who have experience of sitting in an inquisitorial capacity”.²⁰⁵ Appointments to the Panel are made by the Lord Chancellor, with concurrence of the Lord Chief Justice of England and Wales, the Lord President of the Court of Session and the Lord Chief Justice of Northern Ireland.²⁰⁶

201 GRA2016.

202 As above.

203 The Cass Review, About the Review: Terms of Reference, [Accessed 4 November 2021].

204 There are three application routes and each route has different evidential requirements. See Box 1

205 GRA2023.

206 GRA2023.

125. One of the main concerns raised in both written and oral evidence to our inquiry focused on the transparency and anonymity of the Panel. Several pieces of written evidence, referred to the Gender Recognition Panel as a “panel of strangers”,²⁰⁷ and expressed unease over submitting personal information to unknown figures. This was echoed in oral evidence. Lui Asquith from Mermaids told us:

Looking from the perspective of a trans individual, what we hear at Mermaids is that people do not really understand who it is on the panel. There is no real transparency around the process and that creates a barrier, because people do not want to have to evidence to what feels like a panel of strangers, and objectively is a group of strangers, with matters that strike right the heart of their personal life and private life.²⁰⁸

126. Similarly, Sally Brett, Head of Diversity and Inclusion from The Law Society told us that, whilst lawyers who have worked with the Panel have generally found panel members very sympathetic, many of their trans members have said that “there is unease about the anonymity of the panel members and the fact that there is not much transparency around the process”.²⁰⁹ She explained:

You are asked to submit very detailed medical information, and sometimes, particularly if you have been through reassignment surgery, you have no idea who is going to be looking at that and it can make you feel very uncomfortable. I am not sure why there is a requirement for panel members to be anonymous.²¹⁰

127. Another issue raised in relation to the Panel was the lack of feedback when an application for a certificate was rejected. Cat Burton from GIRES told us that “the Panel does not give any feedback whatsoever when it knocks back an application [...]”.²¹¹ Similarly, Professor Alex Sharpe said it was problematic that the Panel does not give reasons for its decisions:

The problem with that is not just that applications are unsuccessful, but that people do not know why they are unsuccessful. It is really a basic issue of due process. It is like a sort of star chamber. If we look at the Irish example, the Minister who governs the situation in Ireland must give reasons when an application is rejected. At the very least, we need something like that in terms of the appeals process. Although appeals can technically be brought, it is impossible to bring an appeal when you do not know what the case against you is.²¹²

128. Paragraph 6(6) of Schedule 1 of the GRA states that the Gender Recognition Panel “must give reasons for their decisions” and paragraph 6(7) states that “where a Panel has determined an application, the Secretary of State must communicate the Panel’s

207 See for example, GRA0539, GRA1324, GRA0953, GRA0948.

208 Q102.

209 Q59.

210 As above.

211 Q99.

212 Q8.

decision and its reasons for making its decision”.²¹³ Furthermore, the ‘Apply for a Gender Recognition Certificate’ page on the Government’s website states that if an application is rejected, “you’ll be told why your application was rejected”.²¹⁴

129. We are mindful of the principle of comity between Parliament and the courts. It is important that Parliament does not trespass into matters that are properly for determination by the judiciary. With that in mind, we made a cautious approach to the President of the Panel, Judge Paula Gray, who agreed to provide us with answers to a series of questions in writing.²¹⁵ We are grateful for Judge Gray’s contribution to our inquiry, which has greatly assisted our understanding of the judicial process.

130. On the issue of transparency, Judge Gray reminded us that the work of the Panel was extremely sensitive, and was subject to statutory duties to sit in private and to keep information private.²¹⁶ She explained that “the Panel and its members would be subject to criminal sanction for revealing details that might lead to somebody being identified” and so “it is simply not possible for the Panel to be as public facing as courts are in some jurisdictions”.²¹⁷ She did tell us that the website was transparent.²¹⁸

131. Judge Gray rejected the assertion that the Panel did not give reasons for refusing an application:

It has been said that we do not give reasons for our decisions. That is wrong. When an application is granted, detailed reasons are unnecessary; the application is granted because it meets the statutory requirements, and that is stated. When an application is refused, detailed reasons are given; the right of appeal on a point of law could not be effective without them. Reasons are only supplied to the parties and not published, because of the privacy imperative.²¹⁹

132. The draft Gender Recognition Reform (Scotland) Bill proposes that, in Scotland, the Gender Recognition Panel be removed with applicants instead applying to the Registrar General for Scotland.²²⁰ After the Registrar General has accepted an application, the applicant would have a three-month period of reflection before confirming that they wish to proceed with the application.²²¹

133. Some of the written evidence we received argued that this model was a good one and one which would help simplify the process. For example, written evidence submitted by the Gender Identity Research and Education Society (GIRES) argued:

Learning from other models, notably those close to home, such as the current Scottish proposals would be a big step forward. These proposals, if

213 Gender Recognition Act 2004.

214 Gov.uk, Apply for a Gender Recognition Certificate [accessed 19 October 2021].

215 Letter from the Chair to Judge Paula Gray, January 2021. Judge Paula Gray’s response: GRA2026.

216 GRA2026.

217 GRA2026.

218 As above.

219 As above.

220 Scottish Government, Gender Recognition Reform (Scotland) Bill: Analysis of responses to the public consultation exercise, September 2021, p1.

221 As above.

adopted in the rest of the UK would stop the current application through the GRP and replace it with a simple process of direct application to the Registrar General, after a period of three months living ‘in role’.²²²

134. Currently, when applications for a GRC are granted in the UK, the Gender Recognition Panel will notify the relevant Registrar General of the issue of a full GRC. The relevant Registrar General will then write to the applicant to make arrangements for the issue of a new birth certificate.²²³

135. Transparency around the operation and decision-making of the Gender Recognition Panel is a concern to many people applying for a Gender Recognition Certificate. It is clear to us that the existence of the Panel itself can, at times, discourage people from applying for a GRC. We believe that another system should exist in place of the Gender Recognition Panel which allows for greater transparency. We note Scotland’s proposed changes to replace the Gender Recognition Panel with the Registrar General for Scotland and we believe this could be a move in the right direction. We heard conflicting evidence on whether the Gender Recognition Panel is providing the feedback that it is supposed to. *We recommend that the Government conduct a review on whether the Gender Recognition Panel could be removed and replaced with the Registrar General for England and Wales, who already has a number of existing functions under the Gender Recognition Act. In the interim, more needs to be done to improve the transparency around the operation and role of the Panel. The GEO should satisfy itself that the Panel is carrying out its feedback requirements in line with the GRA and provide reassurance in response to this report.*

Privacy and disclosure of information

136. Section 22 of the GRA protects the privacy of Gender Recognition Certificate (GRC) holders, by defining information in relation to the gender recognition process as “protected information” for the purposes of the Data Protection Act 1998.²²⁴ It is therefore a criminal offence for a person to disclose information they have acquired about a person’s GRC in an official capacity, when they do not have the consent of the GRC holder.²²⁵ There are limited circumstances where this is allowed.

137. As part of the GRA consultation, the Government wanted to better understand how the privacy provision under the GRA (Section 22) worked in practice and whether or not it was effective at fulfilling its purpose.²²⁶ It asked respondents whether they thought the privacy and disclosure of information provisions in section 22 of the GRA are adequate. Of those who responded, 74.4% said they did not think they were adequate.²²⁷

138. We questioned our witnesses on the provision and whether it should be reformed. Robin White told us:

222 GRA1479.

223 HM Courts & Tribunals Service, T455: The General Guide for all Users, Gender Recognition Act, p6 [accessed 21 October 2021].

224 Women and Equalities Committee, Transgender Equality, 2016, p.20.

225 Gender Recognition Act 2004.

226 Professor Daniel King, Professor Carrie Paechter, Dr Maranda Ridgway and researchers at Nottingham Trent University, Gender Recognition Act: Analysis of Responses, (September 2020), p74.

227 Professor Daniel King, Professor Carrie Paechter, Dr Maranda Ridgway and researchers at Nottingham Trent University, Gender Recognition Act: Analysis of Responses, (September 2020), p75.

If an HR person makes a mistake in handling the certificates of a person to a [employment or promotion] panel, they commit a level 5 criminal offence and are subject, potentially, to a £5,000 fine. But if the panel, knowing of the person's gender, then do not appoint them to a particular post, that is only a civil wrong, which we would then try in an employment tribunal, and that is completely disproportionate. It is one of my reasons for not wanting to apply for a gender recognition certificate under the existing position.²²⁸

She suggested that incorrect disclosure of the data should only be a criminal offence if done deliberately.²²⁹

139. Naomi Cunningham also agreed, stating that “there is no place for the criminal law in protecting this sort of information”.²³⁰ She explained:

There does seem to be a widespread belief, and a belief often written into organisations' policies, that it is criminal to ever reveal that somebody is trans. It is not. It is only criminal even now under section 22 if the information has been learned in an official capacity.²³¹

She told us about the impact this section has on those operating single-sex spaces as well as the fear this section of the GRA causes:

It causes fear - it causes justified fear. You can't expect every HR person to understand exactly what the conditions are for the offence. The result is that it makes people fearful in doing the things that legitimately and lawfully they may do, and in many cases ought to do, for the protection especially of women and children.²³²

140. Our predecessor Committee heard evidence which demonstrated that there was “abuse of confidential information about people's trans status”.²³³ This was also raised in the Government's consultation responses where some organisations felt that “data breaches, which included, but were not limited to, breaches of Section 22 of the GRA, should be dealt with more effectively”.²³⁴

141. Section 22 of the Gender Recognition Act is important. It ensures the privacy of transgender people by making it a criminal offence for a person who has acquired information about a person's GRC, in an official capacity, to disclose it without the transgender person's consent (except in limited circumstances). No prosecution has been brought under this section so far. We are concerned to hear about the fears many working in an official capacity have in relation to this provision, and we are not convinced that in all cases those handling GRC's should be subject to criminalisation where mistakes could be made. We recommend that the Government amends section 22 of the Gender Recognition Act to ensure that only cases where there is evidence that the disclosure was deliberate and knowing, are covered.

228 Q62.

229 Q63.

230 Q64.

231 As above.

232 Q65.

233 Women and Equalities Committee, First Report of Session 2015–16, Transgender Equality, HC 390, para 87.

234 Professor Daniel King, Professor Carrie Paechter, Dr Maranda Ridgway and researchers at Nottingham Trent University, Gender Recognition Act: Analysis of Responses, (September 2020), p75–76.

5 Chapter 3: The Equality Act 2010 and its interaction with the Gender Recognition Act 2004

142. The Equality Act 2010 (EA) provides people with one or more protected characteristics legal protection from discrimination in the workplace and wider society, subject to certain exceptions.²³⁵ Section 7 of the Act gives protection to anyone with the protected characteristic of ‘gender reassignment’, defined as anyone who “is proposing to undergo, is undergoing or has undergone a process (or part of a process) for the purpose of reassigning the person’s sex by changing physiological or other attributes of sex”.²³⁶

143. When we launched this inquiry, we were keen to understand what some of the issues were with the way in which the Equality Act and the Gender Recognition Act interact. Some of the key issues raised to us in both written and oral evidence, are outlined below. We start by looking at some of the exceptions in the Equality Act, including the single-sex and separate-sex exceptions, before exploring the conflation of the terms sex and gender. We note that whilst some people believe there are significant issues with the way in which both Acts work alongside each other, others believe there are no issues.

144. In this report, we have used the terminology of the Equality Act 2010 and refer to ‘exceptions’. Some stakeholders refer to ‘exemptions’, and so direct quotes from oral or written evidence may use this terminology.

Exceptions in the Equality Act 2010

145. The Equality Act contains a number of limited circumstances, also known as exceptions, where discrimination against someone with a protected characteristic is permitted; this includes exceptions for gender reassignment. These exceptions include sport, single-sex and separate-sex services, genuine occupational requirements, marriage and insurance.²³⁷

146. When the Government first launched its consultation into the reform of the GRA, it stated that it did “not intend to make any amendments to the existing exceptions in the Equality Act 2010 associated with the ‘gender reassignment’ protected characteristic”.²³⁸ However, it did want to collect evidence and opinion on potential implications of GRA reform on the Equality Act and said that it was particularly interested in “what having a GRC might mean for the exceptions in the Equality Act”.²³⁹ We too were keen to look at this in more detail. Whilst we were unable to review all of the exceptions in the Equality Act, we did focus our attention on the single-sex and separate sex-services exceptions, the genuine occupational requirement exception and the sports exception.

235 The Equality Act 2010.

236 As above.

237 The Equality Act 2010.

238 Minister for Women and Equalities, Reform of the Gender Recognition Act - Government Consultation, July 2018, p44.

239 As above.

Single-sex and separate-sex services exception

147. Schedule 3, paragraphs 26 and 27 of the Equality Act allows service providers to offer separate services for men and women, or to provide services only to men or only to women in certain circumstances. Schedule 3, paragraph 28 of the Equality Act allows providers of separate or single-sex services to provide a different service to, or exclude, someone who has the protected characteristic of gender reassignment, including those with and without a GRC, provided that the service providers can prove it is “a proportionate means of achieving legitimate aim”.²⁴⁰ As the analysis of responses to the GRA consultation highlights, “this can only be decided on a case-by-case basis, considering the needs of both the individual trans person and other service users”.²⁴¹ An example of this, provided in the explanatory notes to the Equality Act, is that the organisers of a group counselling service for female victims of sexual assault could exclude a woman with the protected characteristic of gender reassignment if they judge that those service users would be unlikely to attend the session if she was there.²⁴²

148. The Government made it clear that it did not intend to make any changes to this exception from the outset of the GRA consultation; however, it did ask whether respondents to the consultation thought changes to the GRA would impact the operation of this exception. 60.2% of those who responded considered that it would not be affected by potential changes to the GRA, and 39.8% considered that it would be.²⁴³

149. In both responses to the consultation and evidence submitted to this Committee, fears were expressed about potential changes to the GRA having an impact on the operation of the exceptions, especially if self-declaration were to be introduced.²⁴⁴ Other issues included the interpretation and application of these exceptions and the guidance for service providers. The analysis to the GRA consultation highlighted that, “some organisations saw GRA reform as an opportunity to get clarity on the law” when it came to the Equality Act.²⁴⁵ Concerns raised in this inquiry about the interplay between the GRA and Equality Act fall into three broad categories:

- A lack of confidence or understanding amongst service providers about how to apply exceptions;
- The need for better guidance to assist service providers with exceptions; and
- How a system of self-declaration might affect the provision of single-sex services.

240 The Equality Act 2010.

241 Professor Daniel King, Professor Carrie Paechter, Dr Maranda Ridgway and researchers at Nottingham Trent University, *Gender Recognition Act: Analysis of Responses*, (September 2020), p98.

242 The Equality Act 2010.

243 Professor Daniel King, Professor Carrie Paechter, Dr Maranda Ridgway and researchers at Nottingham Trent University, *Gender Recognition Act: Analysis of Responses*, (September 2020), p98.

244 Professor Daniel King, Professor Carrie Paechter, Dr Maranda Ridgway and researchers at Nottingham Trent University, *Gender Recognition Act: Analysis of Responses*, (September 2020), p99 and, for example, GRA0870, GRA1857, GRA0851.

245 Professor Daniel King, Professor Carrie Paechter, Dr Maranda Ridgway and researchers at Nottingham Trent University, *Gender Recognition Act: Analysis of Responses*, (September 2020), p102.

Application of the separate-sex and single-sex exceptions and guidance

150. Numerous stakeholders told us that service providers can lack confidence in applying the single-sex and separate-sex exceptions in the Equality Act. In its written evidence, Woman’s Place UK argued:

Our experience, in campaigning for women’s rights, is that the provisions permitting lawful discrimination on the basis of sex (that is the biological sex that is observed and recorded at birth) are poorly understood. We are frequently contacted by supporters with examples of the Equality Act exemptions being misinterpreted and misrepresented by local authorities and service providers.²⁴⁶

Similarly, Professor Freedman told us:

We are often talking about very underfunded organisations, particularly if we are talking about women’s refuges. This is a very underfunded sector [...] There are very few who are clear that they are applying the Equality Act and single-sex exemptions in line with the law.²⁴⁷

151. Several stakeholders called for clearer guidance on the application of the exceptions, in order to help service providers understand what they could and could not do.²⁴⁸ Some organisations told us that more clarity was needed specifically on what was considered to be a “proportionate means of achieving a legitimate aim”.²⁴⁹ The Employment Lawyers Association argued:

The legislation itself is inevitably difficult for non-lawyers to understand, and generalisations about what it means are not of much assistance: it would be best explained by way of a large number of practical examples of situations in which it is and is not permissible to offer single-sex or sex-segregated services. However, others in the working group take the view that unless and until there is clarity about who is the correct comparator there is no point producing any guidance in this area.²⁵⁰

152. Some argued that the guidance that was available had led to “widespread misunderstandings about how and when to use the sex exceptions”.²⁵¹ Others said clarity was needed as to whether the exceptions could be applied where a trans person held a gender recognition certificate. In its written evidence to the Committee, the Legal Feminist argued that “clarity as to how the provisions apply to GRC holders is required”.²⁵² It said:

Given that the rationale for these exceptions is based on biology (safety, security, privacy and fairness), it would be appropriate to suspend the impact

246 GRA1109.

247 Q23.

248 See for example, GRA1465, GRA1291, GRA1068, GRA1876.

249 See for example, GRA0279, GRA1479, GRA0990.

250 GRA1668. Note: If a person wants to show that they have suffered direct discrimination, they need to be able to compare their treatment with the treatment of someone who does not share the relevant protected characteristic but whose circumstances are otherwise similar (so, for example, a woman alleging sex discrimination would compare her treatment with that of a man). The Equality Act calls this person a comparator.

251 GRA0851.

252 GRA1830.

of a GRC for the purposes of the single sex exemptions. More broadly, the proportionality requirements are difficult for individuals and organisations to interpret. They could be codified to create clarity and aid understanding, as they are elsewhere in statute.²⁵³

153. Karon Monaghan said that whilst some people assumed that if a trans person held a GRC they were “entitled to be treated differently in relation to the exemptions”, that they were not.²⁵⁴ The Equality and Human Rights Commission confirmed this:

We are absolutely clear that the exception that enables a single-sex service to exclude a trans person on the basis of gender reassignment is not predicated on whether a trans person has a gender recognition certificate. A trans person can only be excluded on the basis of gender reassignment where it is proportionate to do so, whether or not they have a gender recognition certificate. The gender recognition certificate is relevant in relation to the sex of a person. That is a separate protected characteristic.²⁵⁵

154. There is some guidance available to organisations. The EHRC has published statutory guidance in the form of Codes of Practice explaining the Equality Act 2010.²⁵⁶ Its *Services, public functions and associations: Statutory Code of Practice*, aims to provide guidance to service providers, those carrying out public functions and associations on the Equality Act, including on the application of the exceptions within it, including the single-sex and separate-sex exceptions.²⁵⁷ As noted by our predecessor Committee, “the Code can be used in evidence in legal proceedings brought under the Act and must be taken into account by the courts and following the Code can help service providers demonstrate that they are acting lawfully”.²⁵⁸

155. In 2019, our predecessor Committee concluded that “guidance on what organisations can and can’t do was lacking”,²⁵⁹ arguing that it did “not believe that non-statutory guidance will be sufficient to bring the clarity needed in what is clearly a contentious area”.²⁶⁰ It therefore recommended that:

In the absence of case law the EHRC develop, and the Secretary of State lay before Parliament, a dedicated Code of Practice, with case studies drawn from organisations providing services to survivors of domestic and sexual abuse. This Code must set out clearly, with worked examples and guidance (a) how the Act allows separate services for men and women, or provision of services to only men or only women in certain circumstances, and (b)

253 GRA1830.

254 Q76.

255 Q257.

256 Statutory guidance must, where relevant, be taken into account by an adjudicating body when considering how the Equality Act should be applied. Non-statutory guidance tends to be shorter and more accessible.

257 Equality and Human Rights Commission, *Equality Act 2010: Code of Practice: Services, public functions and associations: Statutory Code of Practice*, 2011.

258 Women and Equalities Committee, *Tenth Report of Session 2017–19, Enforcing the Equality Act: the law and the role of the Equality and Human Rights Commission*, HC 1470, para 161.

259 As above, para 184.

260 As above, para 190.

how and under what circumstances it allows those providing such services to choose how and if to provide them to a person who has the protected characteristic of gender reassignment.²⁶¹

156. In response to this recommendation, the GEO stated that the Government intended to develop and publish non-statutory guidance on how single and separate sex service exceptions apply.²⁶² The GEO committed to publish guidance to provide clarity of the law on single-sex services to all Departments, including the requirement under the public sector equality duty for commissioners of services.²⁶³ The EHRC also responded to this recommendation and committed to “producing a guide for service providers to aid their decision making”.²⁶⁴ It appears that none of the guidance promised has been published. However, at our recent annual evidence session with the EHRC, Baroness Falkner told us that the EHRC’s “target is to publish this in January 2022”.²⁶⁵

157. When we asked legal experts what more could be done by the GEO and EHRC to provide clarity on the exceptions, Karon Monaghan replied:

At the moment, there is really no guidance at all. The statutory code of practice [...] contains virtually no guidance and is pretty confused about what the purpose or effect of a gender recognition certificate is. There is no guidance indicating when it is likely to be lawful to exclude trans people. One can’t do a list because circumstances will vary, but nevertheless, there can be some indicative examples, which can help give some sort of illustrative framework for those who may have to apply the exemptions.²⁶⁶

158. We reiterate our predecessor Committee’s recommendation for better guidance on the single-sex and separate-sex exceptions and urge the Government Equalities Office and Equality and Human Rights Commission to publish this guidance, using worked examples and case studies from organisations providing these services. We also strongly recommend that the Government Equalities Office and Equality and Human Rights Commission urgently develop and publish guidance, in collaboration with trans rights groups, on best practice to provide trans and non-binary inclusive and specific services, including specifically relating to domestic violence and sexual abuse. This guidance should use worked examples and case studies from organisations providing these services.

Genuine occupational requirement

159. Schedule 9 of the Equality Act allows employers to restrict certain jobs to people who have a particular protected characteristic, provided it can be shown that, having regard to the nature and context of the work, this requirement is a “proportionate means

261 Women and Equalities Committee, Tenth Report of Session 2017–19, Enforcing the Equality Act: the law and the role of the Equality and Human Rights Commission, HC 1470, para 190.

262 Women and Equalities Committee, First Special Report of Session 2019, Enforcing the Equality Act: the law and the role of the Equality and Human Rights Commission Responses to the Committee’s Tenth Report of Session 2017–19, HC 96, recommendation 15.

263 As above, recommendation 14.

264 EHRC, Response to the Women and Equalities Committee’s report into Enforcing the Equality Act: The law and the role of the Equality and Human Rights Commission, October 2019, p19.

265 Women and Equalities Committee, Annual Session with the EHRC, Q145.

266 Q84.

of achieving a legitimate aim”.²⁶⁷ The Explanatory Notes to the Equality Act 2010 give a number of examples of this; the examples include a counsellor working with victims of rape, who might be required to be a natal woman, whether or not she has a GRC, to avoid causing them further distress. As the analysis of responses to the GRA consultation highlights, this exception “allows employers to impose a requirement that a job can only be open to people who are not transgender (that is, those who do not have the protected characteristic of gender reassignment)”.²⁶⁸

160. The Government took the view from the outset of its consultation that “this provision would not be undermined by amendments to the legal recognition process set out in the GRA.”²⁶⁹ The analysis document highlighted that this was because:

It is understood to apply to all trans people (people who have the protected characteristic of gender reassignment), whether or not they have changed their gender legally, although the possession of a GRC may be a factor that employers consider when deciding whether or not to impose an occupational requirement”.²⁷⁰

However, as part of the Government’s consultation into reform of the GRA, it asked respondents whether the operation of the occupational requirement exception in relation to gender reassignment would be affected by changes to the GRA. 68.4% of those who responded to the question said that it would.²⁷¹

161. One of the main themes that emerged was on the disclosure of GRC holders in employment. Some respondents argued that “the occupational requirement exception relied on the disclosure of someone’s trans status, sometimes without that person’s consent, with some respondents agreeing with this, and others disagreeing”.²⁷² A commonly held view, particularly among women’s groups, was that “it was legitimate in some employment circumstances to disclose data about people’s trans history, in order to protect both customers/service users and trans people themselves”.²⁷³

162. Another key theme that emerged was that current guidelines discriminate against trans people.²⁷⁴ It highlighted that some felt “these exceptions meant that trans people were never fully treated as their gender identity because of how they looked or acted”.²⁷⁵ It also highlighted that there were concerns over the wording “legitimate aim”, with some feeling that the wording “was too vague and allowed employers to be able to get away too easily with not hiring trans people”.²⁷⁶

163. In written evidence to this inquiry, we were told that more “practical guidance for commissioners and funders on the single-sex exemptions and genuine occupational

267 The Equality Act 2010.

268 Professor Daniel King, Professor Carrie Paechter, Dr Maranda Ridgway and researchers at Nottingham Trent University, *Gender Recognition Act: Analysis of Responses*, (September 2020), p109.

269 GEO, *Gender Recognition Act consultation questions*, 2018, p22.

270 Professor Daniel King, Professor Carrie Paechter, Dr Maranda Ridgway and researchers at Nottingham Trent University, *Gender Recognition Act: Analysis of Responses*, (September 2020), p109.

271 As above.

272 As above, p110.

273 As above.

274 As above, p111.

275 Professor Daniel King, Professor Carrie Paechter, Dr Maranda Ridgway and researchers at Nottingham Trent University, *Gender Recognition Act: Analysis of Responses*, (September 2020), p111.

276 As above.

requirements” needs to be provided.²⁷⁷ This was somewhat reflected in the analysis of responses to the GRA consultation, which noted that a number of respondents felt that if employers had a better understanding of the law, “that would empower them to make more informed decisions, more accurately interpret the law, and act accordingly.”²⁷⁸

164. We recommend that the Government Equalities Office conduct a review into the use of the occupational requirement exception and how it is currently being applied. This review should consider the role of the GRA and how it interacts with the Equality Act and employment laws, and make recommendations to strengthen protections for trans and gender non-conforming people at work. Measures of progress and targets must be set to reduce and eliminate gender-based discrimination in the workplace.

The sports exception

165. Section 195 of the Equality Act permits restrictions on the participation of trans people in “gender-affected activity”, in order to secure fair competition or the safety of competitors.²⁷⁹ The Act defines gender-affected activity as:

a sport, game or other activity of a competitive nature in circumstances in which the physical strength, stamina or physique of average persons of one sex would put them at a disadvantage compared to average persons of the other sex as competitions in events involving the activity.²⁸⁰

166. According to the analysis of GRA consultation responses, “the Government’s understanding of the sport exception is that it can be applied to everyone who has the protected characteristic of gender reassignment, including those who have changed their legal gender as well as those who have not”, and so any changes to the GRA would not affect the sports exception.²⁸¹ The consultation document notes that some people disagreed with this interpretation and “whether it can be applied to people who have changed their legal gender”.²⁸² It also highlights that there is concern and confusion over how and when organisers of sporting events can use the exception, indicating that clear guidance is needed. In its written evidence to the Committee, Sport England said:

Many organisations in the sport and physical activity sector will lack the resources or the expertise to interpret relevant legislation here. These organisations should be empowered to make informed decisions about the application of the exceptions where necessary, and without concern. More practical guidance is needed to clarify legislation in this area, specifically for the sport and physical activity sector, with emphasis on the practical application of the exceptions in the Equality Act.²⁸³

167. In September 2021, the Sports Council Equality Group, a group consisting of the relevant officers from all the Sports Councils which aims to promote and develop equality

277 GRA0715.

278 Professor Daniel King, Professor Carrie Paechter, Dr Maranda Ridgway and researchers at Nottingham Trent University, *Gender Recognition Act: Analysis of Responses*, (September 2020), p110.

279 The Equality Act 2010, s.195(2).

280 The Equality Act 2010, s.195(3).

281 Professor Daniel King, Professor Carrie Paechter, Dr Maranda Ridgway and researchers at Nottingham Trent University, *Gender Recognition Act: Analysis of Responses*, (September 2020), p93.

282 As above.

283 GRA1417.

in sport across all the equality strands, published Guidance for Transgender Inclusion in Domestic Sport.²⁸⁴ This guidance followed a review of existing guidance (2013/15) for the inclusion of transgender people in sport, recognising that “sport at every level required more practical advice and support”.²⁸⁵ The guidance concluded that, “for many sports, the inclusion of transgender people, fairness and safety cannot co-exist in a single competitive model”, recommending that each National Governing Body and Scottish Governing Body should “define the priorities for their sport, and whether the current format of their sport will provide a focus on either inclusion or fairness (and safety where relevant)”.²⁸⁶

168. This guidance was welcomed by some. Fair Play for Women stated that “it is good to see all the UK’s sport councils confirming that reserving a sport category for biological females is both lawful and necessary to guarantee the fair and safe inclusion of women in sport”.²⁸⁷ However, others, such as Mermaids, argued that it “ignores the lived experiences of trans people, and misinterprets the Equality Act and academic literature”.²⁸⁸

169. The EHRC advice and guidance page to Gyms, health clubs and sporting activity providers, states:

You must not restrict the participation of a transsexual person in such competitions unless this is strictly necessary to uphold fair or safe competition, but not otherwise. In other words, treat a transsexual person as belonging to the gender they identity with (as opposed to the physical sex they were born with) unless there is evidence that they have an unfair advantage or there would be a risk to the safety of competitors which might occur in some close contact sports.²⁸⁹

This was reiterated by our predecessor Committee in its 2016 Transgender Equality report, which acknowledged that, “there are likely to be few occasions where exclusions are justified to ensure fair competition or the safety of competitors”.²⁹⁰ The Committee recommended that the Government work with Sport England to produce guidance to help sporting groups understand that there are few instances where exclusions against trans people can be justified.²⁹¹

170. Guidance on the application of the sports exception continues to be confused and inadequate, leaving many sports providers feeling unclear about its application. The Sports Council Equality Group has produced some guidance to try and bridge this gap. However, both the Government Equalities Office and Equality and Human Rights Commission have a responsibility to provide clarity in this area. We recommend that the EHRC and GEO work with the Sports Council Equality Group to publish supplementary guidance that clearly and correctly addresses some of the main concerns sporting bodies have in relation to this exception, including under what circumstances it is acceptable

284 The Sports Council Equality Group, Guidance for Transgender Inclusion in Domestic Sport, September 2021.

285 As above p5.

286 As above, p.15.

287 Fair Play for Women, Our statement on the new guidelines for transgender participation in sport published by the UK Sports Councils [accessed 5 October 2021].

288 Mermaids, Mermaids reaction to the Sports Council Equality Group Review into Transgender Inclusion in Domestic Sport in the UK [accessed 5 October 2021].

289 Equality and Human Rights Commission, Equality law - Gyms, health clubs and sporting activity providers, [accessed 5 October 2021].

290 Women and Equalities Committee, First Report of Session 2015–16, Transgender Equality, HC 390, para 143.

291 As above.

to use the sports exception. We believe it is absolutely essential that the integrity of women's sport is maintained and not compromised, and that nothing should happen in this space which would undermine that. In addition, the EHRC and GEO must work with trans rights groups and sports providers to develop clear, evidence-based guidance with practical examples for how to facilitate trans and gender non-conforming inclusive spaces in sports.

Conflation of the terms sex and gender

171. A major theme that has emerged throughout this inquiry is that the terms sex and gender are used interchangeably throughout the Gender Recognition Act and the Equality Act, and that this has created confusion.²⁹² Many stakeholders have therefore argued that properly defining the words 'sex' and 'gender' is required to ensure that both sex and gender reassignment can be maintained as protected characteristics in the Equality Act.²⁹³

172. The Equality Act defines the protected characteristic of sex as:

- a) a reference to a person who has a particular protected characteristic is a reference to a man or to a woman.
- b) a reference to persons who share a protected characteristic is a reference to persons of the same sex.²⁹⁴

The GRA does not provide a definition of sex. Whilst the term 'gender' itself is not defined in either the Equality Act or GRA, the protected characteristic of 'gender reassignment' is defined in the Equality Act as:

- (1) A person has the protected characteristic of gender reassignment if the person is proposing to undergo, is undergoing or has undergone a process (or part of a process) for the purpose of reassigning the person's sex by changing physiological or other attributes of sex.
- (2) A reference to a transsexual person is a reference to a person who has the protected characteristic of gender reassignment.
- (3) In relation to the protected characteristic of gender reassignment—(a) a reference to a person who has a particular protected characteristic is a reference to a transsexual person; (b) a reference to persons who share a protected characteristic is a reference to transsexual persons.

173. Within the GRA, it states that "where a full gender recognition certificate is issued to a person, the person's gender becomes for all purposes the acquired gender (so that, if the acquired gender is the male gender, the person's sex becomes that of a man and if it is the female gender, the person's sex becomes that of a woman)".²⁹⁵

174. Throughout both Acts, references are made to gender through terms such as 'acquired gender' and 'gender-affected sport'. Professor Kathleen Stock, then Professor of Philosophy at from the University of Sussex, explained some of the issues with the term gender:

292 GRA0803.

293 GRA0960.

294 The Equality Act.

295 The Gender Recognition Act.

“Gender” is one of the most ambiguous words I can possibly think of. Sometimes, it is just used as a polite euphemism for biological sex as when, traditionally, a passport application would ask you what your gender was, male or female. Sometimes it is used to cover masculinity and femininity, so the social meanings or stereotypes around biological sex. Sometimes, by academics, it is used to mean something like womanhood or manhood that is assumed to be different from male or female, but that is not a widely understood meaning.²⁹⁶ [...]

If you are making legislation, you need to define your terms. I will give you a quick example of the confusion that can arise. The Gender Recognition Act talks about acquired gender, but in the notes that I was looking at yesterday, it says that, if you have a GRC, you will be protected under the protected characteristic of sex. The Equality Act talks about gender reassignment, but it also talks about changing sex. There is huge confusion around this area already and they need to be redrafted to make it clearer.²⁹⁷

175. This was echoed in a number of pieces of evidence. Sports England argued:

The interchangeable use of both terms means that it is difficult to separate the biological nature of sex from more socially constructed concepts around gender. This presents challenges for those seeking to interpret the legislation to make recommendations around specific action. In a sport-specific context, the ability to separate sex and gender-based activities is vital when providing guidance to service providers around the use of single-sex spaces and single-sex participation, as Sport England is working to do.²⁹⁸

176. We spoke to legal experts about the need for clearer definitions of sex and gender and it was clear that there was disagreement about whether the term ‘sex’ covered natal men and women only or those with the protected characteristic of gender reassignment. Karon Monaghan argued:

I think they are defined. I know that there is disagreement about this, but I am completely satisfied that female woman - natal woman, as it is sometimes described - is perfectly well defined in the Equality Act. Sex is the category. Sex covers being a man or a woman, and the Act doesn’t stop there. It tells us that being a man or a woman means being male- that is, biologically- or female, also biologically.²⁹⁹

Robin White however, disagreed with this interpretation:

If what we do is to enhance or expand definitions, then we need to recognise the consequence of doing so. There is another consequence of not doing so, which is that if you as Parliament do not do it, Karon and I will end up in a court somewhere arguing this through, and either she is right or I am right, and the court will define.³⁰⁰

296 Q36.

297 Q37.

298 GRA1417.

299 Q92.

300 Q93.

177. When we asked the EHRC about whether there are problems with the interaction between the GRA and the EA, Baroness Falkner acknowledged that “the interaction between the GRA and the Equality Act 2010 is complex”.³⁰¹ She continued by saying “it has implications for how the protections on the basis of sex and gender reassignment work in practice”.³⁰² The 2018 statement issued by the EHRC on sex and gender reassignment: legal protections and language states:

‘Gender’ refers to socially constructed roles of women and men and/or an individual’s conception of their identity. The term is often used interchangeably with ‘sex’, partly in recognition that much of the inequality between women and men is driven by underlying social and power structures rather than by biological sex. Although the Equality Act protects people from discrimination because of their sex, other UK legislation (such as the regulations requiring employers to publish their gender pay gap) refers to gender. This may cause confusion in some circumstances.³⁰³

It goes on to say it is reviewing its language across its website and publication to ensure “clarity and consistency” but that “it is important to note that any mistaken or structural use of the term gender does not affect how the law works in practice”.³⁰⁴

178. The conflation of the terms sex and gender in both the Gender Recognition Act and Equality Act has led to widespread confusion and disagreement. We welcome the Equality and Human Rights Commission guidance on sex and gender reassignment and believe it is clear in explaining the rights of those who have acquired a GRC in relation to the protected characteristics in the Equality Act. However, there is more work to be done. *The GEO should work to update the language in both acts in relation to sex and gender, ensuring consistency in the definitions used. It should be clear when an Act is referring to natal sex, legal sex and gender. The Government should also aim to update all official documents that conflate the terms sex and gender.*

Data collection and monitoring

179. Related to the conflation of the terms sex and gender is the collection and monitoring of sex-based data. In its written evidence to us, Fair Play for Women argued that “the GRA 2004 means birth certificates can no longer be relied upon to accurately record someone’s birth sex in all cases”, and this “presents a problem when data on birth sex needs to be collected for equality monitoring purposes”.³⁰⁵ This was reiterated in written evidence submitted by a group of social scientists engaged in statistical analysis of survey and administrative data. They argued:

Sex is a fundamental demographic variable. We need accurate data, disaggregated by sex, in order to understand differences in the lives of

301 Q253.

302 As above.

303 Equality and Human Rights Commission, Our statement on sex and gender reassignment: legal protections and language (30 July 2018).

304 As above.

305 GRA0851.

women and men, and in order to tackle sexism [...] The availability of accurate sex-based data is already being undermined by the conflation of sex and gender identity.³⁰⁶

180. We asked Professor Alice Sullivan, Professor of Sociology at the University College London about GRA reform and data collection. She told us:

I would really have liked to see clear guidance on data collection and equalities monitoring. This is an area where there has been a muddle, because people are confused between sex and gender identity. We need to make a clear distinction between the two and say they are both important and we need data on both. [...] In particular, I would have liked [the Government] to say that publicly funded or mandated data, such as the census or equal pay monitoring, should always include a natal sex variable. Of course, we can also collect data on gender identity alongside that.³⁰⁷

She added, “when we collect data, privacy considerations are always paramount. It is always anonymised. It is not about outing people.”³⁰⁸

181. We recognise the importance of collecting and monitoring data on natal sex, especially in cases of equality monitoring. We also recognise the “sensitives” around collecting and monitoring data on natal sex and the distress it can cause trans and gender non-conforming people. *The Government Equalities Office should work closely with trans rights groups and researchers to develop clear guidelines around data collection in relation to sex and gender, with the aim of minimising such distress, particularly for publicly funded or mandated data such as the census.*

306 GRA0992.

307 Q31.

308 Q45.

6 Part 2: Wider issues affecting transgender people

182. Whilst we predominantly focused this inquiry on the Gender Recognition Act and its reform, we were also keen to explore some of the issues affecting transgender people. In particular, we wanted to look at trans peoples experience of healthcare (including gender identity clinics and primary care), commitments made in the LGBT Action Plan and non-binary gender recognition.

183. Part 2 is divided into three Chapters:

- Chapter 4: Transgender healthcare
- Chapter 5: The LGBT Action Plan
- Chapter 6: Non-binary gender recognition

7 Chapter 4: Transgender healthcare

Gender Identity Clinics

184. Chapter 1, of this report dealt with gender identity clinics in relation to the Government's response to the Gender Recognition Act consultation. This part of the report looks at gender identity clinics in more detail, highlighting some of the issues raised to us about capacity and waiting times and the functioning and staffing of them.

Capacity and waiting times

185. Whilst the opening of the three pilot clinics (see paras 40 to 46) was welcomed amongst stakeholders, a number of concerns were raised about the capacity of and waiting times for gender identity clinics more generally.³⁰⁹ According to a BBC report in January 2020, more than 13,500 transgender and non-binary adults were on waiting lists for NHS gender identity clinics in England. The report said some people had waited up to three years for a first appointment.³¹⁰ Whilst the pilot clinics were established to help address waiting times, we heard evidence that they will do little to significantly reduce them.

186. Dr John Chisholm, Chair of the Medial Ethnicity Committee at the British Medical Association, told us that the pilot clinics “will not make a great contribution numerically, with 1,500 or 1,600 new patients being seen when over 13,000 people are waiting”.³¹¹ Dr Ruth Pearce told us that these pilots “are woefully inadequate in terms of supporting the thousands of people still on waiting lists elsewhere in England, Wales and Scotland and especially Northern Ireland”.³¹² She continued:

All the pilot clinics are going to have artificially small numbers of service users due to the restrictions placed on them by NHS England during the assessment process, and they will just be serving small, localised populations. For example, the Manchester service is only seeing people on existing gender clinic waiting lists and those individuals must have a Greater Manchester GP. Similarly, the new London Service on Dean Street is only seeing existing service users at the 56 Dean Street Service. I have been informed that clinic managers are already finding themselves turning people away.³¹³

187. We are aware COVID-19 has increased waiting times for NHS services across the board, however, we were told that waiting times for gender identity clinics were dramatically increasing before the pandemic. Dr Harriet Hutchinson from Action for Trans Health Durham, told us:

The pandemic has of course had a huge impact on us, but the waiting times are increasing even without taking that into account. If we use the figures

309 Q12.

310 BBC News, Transgender people face NHS waiting list 'hell', 9 January 2020.

311 Q176.

312 Q12

313 As above.

from 2019, before the pandemic hit, our local gender dysphoria service was increasing its waiting list at a rate of approximately five months year on year.³¹⁴

188. Lack of support for those on waiting lists was also raised as an issue during our inquiry. Dr Harriet Hutchinson told us that once a person has received a referral to a gender identity clinic “they will receive an apology letter for the long wait, and then precisely nothing happens”.³¹⁵ She told us this was, in some ways, framed as being supportive, and that this was patronising to transgender people and their choices:

The waits built into the gender identity clinic systems - whether they are between the first appointment and the second appointment, or simply being on the waiting list - being considered as thinking time is deeply problematic. The support during these periods is non-existent. We often find that non-profit organisations are picking up the pieces from this. Our colleagues at Be in Newcastle are picking up the pieces where NHS services and the gender identity clinics have failed. People who are requiring increased mental health support during the times that they are on waiting lists, or the months and months between their first and second appointments, are ending up in crisis situations and being referred to unfunded third sector organisations to provide care that should be provided by the NHS.³¹⁶

189. We commend the work undertaken by NHS England to open more gender identity clinics and welcome the announcement of the opening of a further two pilot clinics. We are, however, concerned to learn that waiting times for these clinics continue to be lengthy. There also appears to be a lack of clarity from NHS England over whether these pilot clinics will continue to remain open long-term. We recommend that the GEO works closely with the Department for Health and Social Care and NHS England to ensure that NHS England maintain the five pilot gender identity clinics unless or until the time that more permanent facilities with greater capacity, geographical scope and powers can be established. No facility should be closed without another opening in its place to ensure waiting times are reduced. Given that NHS England has opened five pilot clinics in the last two years, the Equalities Minister should secure additional funding to ensure significant steps will be made over the next two years to reduce waiting list times. The Minister should work closely with NHS England to continue to open facilities in under-resourced areas to tackle lengthy waiting lists and provide other much needed services including mental health services. We would urge it to consider opening clinics in the West Midlands and the South West of England, given the lack of services in those regions.

190. NHS England should also consider more appropriate and effective responses and services to patients facing lengthy waiting list times than the current communications. This must include access to trans/gender non-conforming inclusive or specific mental health services. The GEO, DHSC and NHS England should provide this Committee with annual updates on the progress of these developments, including the current pilot clinics, informing us of the impact they are having on waiting times and their targets to reduce them.

314 Q174.

315 Q173.

316 Q173.

Functioning and staffing

191. Another concern that was raised to us during our oral evidence sessions, was the functioning of the pilot gender identity clinics and the number of staff with the specialist knowledge. Dr Harriet Hutchinson told us:

The services that are coming into place are not able to perform all the functions of the gender identity clinics, for example, the requirement for a particular period of time for the service to have existed before it can make surgical referrals. Those patients will need to return to the existing gender identity clinics in order to make progress there. Additionally, after two years we have no idea what will happen to those services.³¹⁷

192. However, according to Leigh Chislett, the Clinic Manager at the gender identity clinic at 56 Dean Street, that clinic has been “getting extremely positive feedback from the service users at Dean Street with this pilot, and it could potentially be transformative”.³¹⁸ At the time he gave oral evidence to us, he told us that the Dean Street clinic had seen 177 patients for a first assessment and 163 for a second assessment.³¹⁹

193. As well as concerns about the functioning of these clinics, Dr John Chisholm highlighted the urgent need for trained specialists and staff to run them and any other pilot clinics that emerge in future.³²⁰ He said:

You cannot just magic up specialists out of nowhere. There is a need for trained clinicians who have both the resources and the experience to provide the necessary standard of care. It takes time to get fully trained clinicians in that way.³²¹

He also argued that “there is a deficit here between the specialist services and general practice, which needs to be filled by services that are commissioned and by clinicians who are interested in providing the service and have been adequately trained.”³²²

194. When we addressed the concerns about specialist staff with NHS England, John Stewart, told us:

Alongside the significant growth in demand for referrals to the service, the other challenge that we have is absolutely around workforce capacity.³²³

He told us that NHS England “have funded the Royal College of Physicians to develop a credential programme in gender dysphoria medicine, delivered by the University of London”.³²⁴ This is the UK’s “first accredited training programme in gender medicine” for those wishing to specialise in this area. Mr Stewart explained that there are currently 43 clinicians undertaking this course and that he hoped the number will grow.³²⁵

317 Q175.

318 Q196.

319 As above.

320 Q176.

321 As above.

322 As above.

323 Q204.

324 As above.

325 As above.

195. We asked Minister Churchill how the COVID-19 pandemic will impact the drive to open more clinics and upskill current clinicians. She told us:

I do not see it affecting it as the NHSE is funding individual fellowships for surgeons who want to train in gender reassignment. [...] I have been pleased by the fact that people are accessing the new training. That gives me a degree of assurance that we will be able to see the numbers of workforce rise. I would gently point out that we are working from a pretty low base in this area. To get a rise is not as challenging as in some areas, and it is needed.³²⁶

196. Cat Burton from GIRES told us that one way the system in Wales has tried to address the issue of capacity and staffing is by looking to primary care and gender centres for support. She told us:

In Wales, the system is very simple. Some additional training is being offered to any GP who is interested. That additional training qualified them to be the lead on gender identity within their GP cluster. We have 70 clusters in Wales or something of that order. Each of them has at least one specially trained GP. Your GP, who may not have the knowledge, only sends you to the cluster GP in your town or locality, somebody very close with that extra training. That GP has access to the gender centres. We have one in Cardiff at the moment, but we are planning another three. That gender centre is there for two reasons; first, to provide expertise to that cluster GP; and secondly to provide a place for the GP to refer more complex cases to. [...] The vast majority of people do not need medical intervention. The vast majority of people just want to talk to somebody about this problem and potentially transition socially. A tiny minority actually need to proceed as far as surgery; an awful lot stop at hormone treatment.³²⁷

197. There is undoubtedly an urgent need for more trained and specialist clinicians who have the knowledge and understanding to work in the growing number of gender identity clinics. We welcome NHS England's funding of a programme in gender dysphoria medicine. However, we are concerned that NHS England do not have enough specialist staff needed to run new clinics. We believe that there is a need to encourage NHS staff and medical students into this field in order to address the significant waiting times many people accessing these clinics face. *The Department of Health and Social Care should work with NHS England to attract more trainee doctors to specialise in gender identity healthcare.*

Access to primary healthcare

198. Findings of the 2018 National LGBT Survey highlighted that 38% of trans respondents had a negative experience when trying to access general healthcare services because of their gender identity.³²⁸ This was somewhat reflected in both written and oral evidence

326 Q269.

327 Q114.

328 Government Equalities Office, National LGBT Survey: Summary report, July 2018, p.17.

to this inquiry, where we were told about the difficulties many transgender and non-binary people face when trying to access these services, especially in relation to primary healthcare.

199. Dr Hutchinson from Action for Trans Health Durham explained that “access to primary healthcare is awful” for transgender people.³²⁹ She told us that the type of support transgender people received from their GP surgeries was “very, very patchy”.³³⁰ She said:

For example, locally, we have some very supportive clinics, and another that will not change any of the details on your medical records unless you have had “the full sex change operation”. We know that people are put off accessing healthcare as a result.³³¹

200. Dr Hutchinson told us that some of the service users at Action for Trans Health Durham had described problems changing their records, with untrained staff not knowing how to do it or demanding GRCs first.³³² In written evidence submitted by Action for Trans Health Durham, we were told that “misgendering and transphobia are rampant in medical spaces”, causing “a great deal of medical trauma” within the transgender community.³³³ Dr Hutchinson told us:

We are aware of clinicians asking entirely unrelated questions about people’s histories and their genital status. One of our service users was accompanying another person to a mental health appointment - for somebody else - and that service user was asked what their plans were for genital surgery. These basic discourtesies and intrusions are perfectly usual. We know of GPs who have said that they would play devil’s advocate before permitting referrals to gender identity clinics. We are aware of practitioners at all levels who simply refuse to refer to people in the way that they have asked to be described.³³⁴

201. Written evidence submitted by Trans Masculine Birmingham, a support and social group, emphasised that there could also be a lack of awareness amongst healthcare professionals about the specific healthcare needs of transgender and non-binary patients, making access to primary healthcare challenging. It argued:

GPs are the first medical professional trans and non-binary people contact to access trans healthcare. The general lack of awareness among primary healthcare professionals can prevent patients from gaining access to treatment at GICs and other specialists.³³⁵

The 2018 National LGBT Survey also raised this as an issue, highlighting that LGBT people more broadly were more dissatisfied with health services than those who were not LGBT, citing as an example a “lack of knowledge among medial staff about the health needs of LGBT people” as one of the main reasons for dissatisfaction.³³⁶

329 Q178.

330 As above.

331 As above.

332 Q183.

333 GRA1324.

334 Q183.

335 GRA1150.

336 Government Equalities Office, National LGBT Survey: Summary Report, July 2018, p17.

202. Other issues raised by Galop included, a fear of being misunderstood or discriminated against when accessing healthcare services; anxiety or reluctance to disclose and explain trans identity within mainstream settings; and having to ‘come out’ several times when accessing difference layers of support.³³⁷

203. Dr Chisholm from the British Medical Association explained that the COVID-19 pandemic had further exacerbated difficulties transgender and non-binary people had accessing primary healthcare:

There has been a huge increase in waiting lists for surgical treatment and outpatient referrals right across the board. There is also obviously the issue of remote consulting. There has been a big switch in general practice in particular to many consultations occurring virtually: over the telephone, over video and by email. This will have had an impact on particular groups accessing services. Anybody with a complex problem may find it more difficult to explain and to get the treatment they need with remote consultations.³³⁸

Improving primary healthcare

204. It was argued that one of the ways in which primary healthcare could be improved for transgender people was through improved training and with clearer guidance for both medical professionals and for trans people.³³⁹ Dr Chisholm told us that current training for healthcare professionals “is somewhat ad hoc”, mostly done on a voluntary basis and not part of the speciality training curriculum for general practice.³⁴⁰ He also suggested there needed to be improvements on access to healthcare screening. He told us that “some trans patients may still require access to screening programmes that are predominantly provided to patients of another gender”.³⁴¹ He argued that “doctors must be vigilant and sensitive to ensure that trans patients continue to have access to the screening programmes that they will continue to need on a lifelong basis”.³⁴²

205. The National Adviser for LGBT Health, Dr Michael Brady, told us about some of the steps he was taking to improve healthcare for transgender people:

There is a need to provide better guidance, support and training more generally for general practitioners around trans health - not just gender identity but trans health in general - to make the workforce more comfortable managing trans and non-binary people, and more comfortable using correct pronouns, to understand what is and should be a relatively simple process of changing names on systems and so on and so forth. That is a piece of work that we will be publishing in the next few months.³⁴³

337 GRA1614.

338 Q179.

339 Q180.

340 Q181.

341 As above.

342 As above.

343 Q206.

206. When we questioned the then Parliamentary Under Secretary of State at the Department of Health and Social Care, Jo Churchill MP, about training and guidance needed for healthcare professionals she told us:

Funnily enough, I am meeting with the GP lead for the BMA next week. I will commit to the Committee to raising this issue in particular and seeing if he has any concerns that we are not addressing. If he has, I will write to the Committee and let you know that we have discussed issues outstanding and what action may be taken.³⁴⁴

We did not receive further correspondence from the Minister.

Access to support services

207. Findings of the 2018 National LGBT Survey highlighted that there were “specific concerns with mental and sexual health services” for LGBT people,³⁴⁵ something also echoed to us in written and oral evidence.

Mental health services

208. The National LGBT Survey highlighted that there is a “higher prevalence of mental health issues among LGBT people than the general population in the UK”.³⁴⁶ Written and oral evidence to our inquiry suggests that access to mental health support services is challenging for LGBT+ people, especially for many trans and non-binary people.³⁴⁷

209. In its written evidence, the British Medical Association argued, “pressure on mental health services is acute and growing”.³⁴⁸ It said:

Given that we know that many trans and nonbinary people experience mental ill health, including as a result of experiences of discrimination and marginalisation, ensuring timely access to inclusive medical and psychological services is essential.³⁴⁹

In her oral evidence to us, Dr Hutchinson set out some of the issues transgender people face when accessing mental health services. She told us that “Users of mental health services report their doctors outwardly and actively challenging their gender identity in ways that are entirely unrelated to their mental health issues”.³⁵⁰ She also stated that her organisation “see GPs referring people to gender identity clinics for mental health care”, despite it not being available through those services.³⁵¹

210. In the 2018 LGBT Action Plan, the Government committed to improve mental healthcare for LGBT people, stating that the GEO, alongside the DHSC, would “jointly develop a plan focussed on reducing suicides amongst the LGBT population”.³⁵² When we

344 Q286.

345 Government Equalities Office, National LGBT Survey: Summary Report, July 2018, p17.

346 As above, p18

347 As above, p18.

348 GRA1504.

349 GRA1504.

350 Q178.

351 Q178.

352 Government Equalities Office, LGBT Action Plan, July 2018, p9.

asked Minister Churchill, about the health commitments in the LGBT Action Plan, she told us that the Department of Health and Social Care was “improving action for mental health frailties and care within the LGBT community” but did not expand on what action was being taken to do this. She said there was a need for good-quality data to understand where the need was.³⁵³

Domestic and sexual violence services

211. In written evidence to us, Galop, the UK’s LGBT+ anti-abuse charity, emphasised, “trans, non-binary, and gender-nonconforming people are at high risk of abuse and violence from a wide range of perpetrators and in every part of their daily lives”.³⁵⁴ It argued that more specialist service provision was required to support the trans community, as well “action to reduce barriers to trans victims and survivors accessing helping and support in mainstream services”.³⁵⁵

212. We were told there was a lack of both sexual and domestic violence services for non-binary people. In its written evidence, A New Normal, a diversity and inclusion consultancy, told us that with “regard to things like domestic and sexual violence, the main issue is lack of services for non-binary people”.³⁵⁶ It argued that existing services tended to be heavily gendered, which could “leave non-binary people unwelcome in either the male or female service”.³⁵⁷ This was echoed by Galop who said that initial findings from their research into LGBT+ people’s experience of sexual violence indicted that “non-binary people are most at risk of experiencing sexual violence” and “may feel excluded from both women-only and men-only services and unable to find the help and support they need as victims/survivors”.³⁵⁸

213. In November 2021, the Domestic Abuse Commissioner and Galop published *LGBT+ Domestic Abuse Service Provision Mapping Study*, which identified a number of issues with service provision for the LGBT+ victims of domestic abuse. Some of those issues identified included there being a small number of domestic abuse services for LGBT+ victims, most of which are based in London and that LGBT+ domestic abuse support is largely provided by LGBT+ ‘by and for organisations’ with a domestic abuse service.³⁵⁹ It made 13 recommendations, one of which called for an increase in funding, and making long-term funding available for LGBT+ domestic abuse services. It sighted a Safelives’ Safe Fund report which recommended £10 million would be the appropriate sum needed to ensure full provision for LGBT+ victims and survivors of domestic abuse across England and Wales.³⁶⁰

214. We are aware that the COVID-19 pandemic has made access to primary healthcare more difficult for everybody, including transgender and non-binary people. In her response to the Gender Recognition Act Consultation, the Minister for Women and Equalities argued that the most important concern for transgender people was

353 Q283.

354 GRA1614.

355 As above.

356 GRA1243.

357 As above.

358 GRA1614.

359 The Domestic Abuse Commissioner and Galop, *LGBT+ Domestic Abuse Service Provision Mapping Study*, 2021, p.9.

360 As above, p.10.

the state of transgender healthcare. However, we have seen no evidence that the Government Equalities Office is working to improve transgender and non-binary people's experience of primary healthcare.

215. *The Government Equalities Office and Department for Health and Social Care should develop a healthcare strategy for transgender and non-binary people within the next year. The strategy should include:*

- *improved and mandatory training for GPs around treating trans and non-binary patients;*
- *guidance for healthcare professionals, including how to communicate appropriately with patients who are trans or non-binary;*
- *improved access to support services for trans and non-binary people.*
- *Both departments should set out how they will measure progress across each of these areas in order to improve the experiences of trans and non-binary people.*

8 Chapter 5: The LGBT Action Plan

216. In 2017, the GEO launched a national survey of LGBT people to gather more information about their experiences in the UK.³⁶¹ The survey received more than 108,000 responses, “making it the largest national survey of its kind anywhere in the world” at the time.³⁶² In response to the survey, the Government “committed to taking bold action”, and in 2018, it published its LGBT Action Plan which explained how it would “advance the rights of LGBT people both at home and abroad, and improve the way that public services work for them”.³⁶³ The cross-Government Action Plan made over 75 commitments in several areas including; health, education, safety, the workplace, the rights and law and data and monitoring.³⁶⁴

217. Some of the commitments made in the Action Plan related to improving the lives of transgender people, such as consulting on how to improve the GRA, investigating ways to make it easier to tell the government a person has changed their gender and improving the way gender identity services work for transgender adults.³⁶⁵

218. The Action Plan also committed to provide annual updates to the Women and Equalities Select Committee.³⁶⁶ It was reported that the Prime Minister had confirmed his support for the LGBT Action Plan when seeking re-election in 2019.³⁶⁷ It was this Committee’s understanding that we would continue to receive updates on its implementation. We last received an update on the Action Plan in 2019. We wrote to the Minister for Women and Equalities for an update earlier this year but did not receive a response.³⁶⁸ When the Minister gave oral evidence to our inquiry into *The Role of the GEO: embedding equalities across Government*, we asked her why she had not provided us with an update on the Action Plan. She replied:

It is probably because there is a new Government in place under the leadership of Boris Johnson.³⁶⁹ [...] What I am saying is that that [the LGBT Action Plan] was set out by the previous Administration. I have laid out what our priorities are. The Prime Minister made clear in the Queen’s Speech that we are moving forward on banning conversion therapy and the LGBT conference. Those are our priorities.³⁷⁰

219. Earlier this year, three members of the Government’s LGBT Advisory Panel (which has since been disbanded) resigned sighting concerns over the Government’s commitment to improve LGBT equality.³⁷¹ During an oral evidence session we held with the three former members of the panel, we asked them about the LGBT Action Plan and the Ministers new priorities for the LGBT+ community. Jayne Ozanne, Director of the Ozanne Foundation, told us:

361 Government Equalities Office, National LGBT Survey: Summary Report, July 2018, p2.

362 As above.

363 Government Equalities Office, LGBT Action Plan, July 2018, p3.

364 As above.

365 As above.

366 As above, p29.

367 Boris Johnson, will you keep your promise to trans people?, Pink News, July 13 2020.

368 Letter to the Minister for Women and Equalities, 24 February 2021.

369 Women and Equalities Committee, The role of the GEO: embedding equalities across Government, Q64.

370 As above, Q65.

371 Three UK government LGBT advisers quit with rebuke of ‘ignorant’ ministers, The Guardian, March 2021.

I have been operating for many months now under the belief that the action plan is dead. I do not see, frankly, how any of the action points that had yet to be implemented will continue to be implemented without the ministerial support that they need. It is one of the things that we, as a panel, when we have met privately as a group, have been terribly concerned about. That is why we put our own priorities to the Minister, trying to draw on what we saw as the most important of those 75 [commitments from the LGBT Action Plan]. [...] I do not think they have any intention of opening it up to see what is in it, putting it very bluntly.³⁷²

Similarly, Paul Martin from the LGBT Foundation told us that the Panel wrote to the Secretary of State on the 6 January 2021, to outline what the priorities should be for the duration of the LGBT Action Plan. He told that us those priorities were summarised under “research, monitoring, health and wellbeing, education, and asylum and mitigation, and some cross-cutting themes that we agreed as a panel”.³⁷³

220. We were told that the Department for Health and Social Care still considers the Action Plan to be a point of reference.³⁷⁴ Dr Michael Brady told us that he and his team at NHS England were also continuing work to implement some of the health commitments made in the Action Plan.³⁷⁵ He described the Action Plan as “still an important document”, with some commitments achieved and others “works in progress”.³⁷⁶

221. We welcome confirmation from the Department of Health and Social Care that the LGBT Action Plan is considered a point of reference for the Department. However, we are concerned that the Government Equalities Office appears to have abandoned it. This demonstrates how disjointed the Government’s approach to LGBT+ issues is. It is also concerning that the GEO is ignoring the valuable experiences and concerns of LGBT+ people across the UK. The Government’s own LGBT Advisory Panel made it clear that the commitments in the LGBT Action Plan should continue to be implemented, before it was disbanded. *The Government should commit at the earliest possible opportunity to continuing the implementation of the LGBT Action Plan across all departments. It should also reinstate its LGBT Advisory Panel, to demonstrate willingness to implement the actions outlined in the Plan - driven by the data from the National LGBT Survey. We call on the Government to write to this Committee outlining the next steps in this work and providing a timetable by which they hope to achieve it.*

372 Women and Equalities Committee, The LGBT Advisory Panel, Q43.

373 As above.

374 Q284.

375 Q205.

376 As above.

9 Chapter 6: Non-binary gender recognition

222. There is no provision within the Gender Recognition Act to allow for those who do not identify as male or female to be legally recognised. A large volume of written evidence submitted to this inquiry has called for the legal recognition of non-binary people through the GRA, and expressed disappointment that the Government did not bring forward changes to this in its proposals to reform the process. We are also aware that a number of House of Commons petitions have called for non-binary people to be legally recognised.

223. When the previous Government initially launched its consultation into the Gender Recognition Act, it stated the “government aims to gather evidence to further advance equality for nonbinary and intersex people”.³⁷⁷ Within the consultation itself, 64.7% of those who responded agreed that changes should be made to the GRA to accommodate individuals who identify as non-binary.³⁷⁸ The Government did not bring forward any reforms to the GRA that recognised or included non-binary people. The GRA consultation analysis explained:

The Government acknowledged that there seemed to be an increasing number of people who identified as non-binary but noted that there were complex practical consequences for other areas of the law, service provision and public life if provision were to be made for non-binary gender recognition in the GRA. The consultation sought respondents’ initial views on the complex issue of non-binary recognition.³⁷⁹

224. The Equality and Human Rights Commission told us that, in relation to non-binary identities and its response to the Government’s GRA consultation, it “recommended that further understanding was needed before any legislation was brought forward in that area”.³⁸⁰ Melanie Field, Executive Director for Policy, Strategy and Wales at the EHRC, told us that the Commission was “not planning to do any research on that at the moment”.³⁸¹

225. In the 2018 LGBT Action Plan, the then Government made a commitment to “launch a separate Calls for Evidence on the issues faced by non-binary and intersex people”, in order to improve its understanding of the issues they face.³⁸² During a recent court case dealing with gender markers on passports, a witness statement provided by a GEO official stated that “the call for evidence will be run by the National Institute for Social Research, and the contractor was ready to commence work immediately after the General Election which was due to take place on 12 December 2019”.³⁸³ This call for evidence has not been launched.

377 “Government Announces Plans to Reform Process of Changing Legal Gender”, Government Equalities Office press release, 3 July 2018.

378 Professor Daniel King, Professor Carrie Paechter, Dr Maranda Ridgway and researchers at Nottingham Trent University, *Gender Recognition Act: Analysis of Responses*, (September 2020), p130.

379 Professor Daniel King, Professor Carrie Paechter, Dr Maranda Ridgway and researchers at Nottingham Trent University, *Gender Recognition Act: Analysis of Responses*, (September 2020), p130.

380 Q235.

381 As above.

382 Government Equalities Office, *LGBT Action Plan*, July 2018, p4.

383 *R (on the application of Elan-Cane) v Secretary of State for the Home Department* [2020] EWCA Civ 363, para 30.

226. When the previous Government launched its consultation into the reform of the Gender Recognition Act, it explicitly stated that one of its aims was to gather evidence to further advance equality for non-binary and intersex people. The LGBT Action Plan also made a commitment to improve the Government's understanding of the issues faced by non-binary people. *The Government should clarify what the barriers are that prevent it from allowing non-binary people to be legally recognised. The Government should lay out reasons in writing to this Committee at the earliest possible opportunity, within a maximum of 12 weeks. The Equality and Human Rights Commission should undertake research in this area so that proposals to allow for legal recognition of non-binary people can be brought forward during this parliament.*

Conclusions and recommendations

The Government's consultation on and response to Gender Recognition Act reform

1. We consider the reduction in the fee for a Gender Recognition Certificate from £140 to £5 to be a step in the right direction. This new nominal amount will however contribute virtually nothing to the running of the Gender Recognition Certificate system and appears tokenistic. The Government's consultation showed that there is support for removing the fee altogether. *We recommend that the Government provide a response to this report explaining its rationale for reducing the fee from £140 to £5.* (Paragraph 31)
2. *We welcome the move to offer applicants a digital route. This will bring the process up to date with other Government services, which can be accessed online. The Government must ensure it is a system that can be accessed via smartphones as well as other devices. It will also need to offer a non-digitised route for those people who do not have access to the right technology and who feel more able to submit documents in hard copy. In response to this report the Government must set out and commit to placing the process online in the next six months. It should provide regular updates to stakeholders, including this Committee, on what stage the process is at and immediately clarify whether a non-digitalised system will continue to exist.* (Paragraph 39)
3. The wording of the statement by the Minister for Women and Equalities suggested that the three clinics she referred to were new initiatives, driven by the Government Equalities Office in response to its consultation. The three pilot clinics in question had, in fact, already been announced and were a product of planning by NHS England. It is not clear that the Government Equalities Office had any input into these pilots. The inclusion of the clinics in the consultation response statement served only as a distraction from the lack of any real change to the gender recognition process. (Paragraph 46)
4. The length of time taken by the Government Equalities Office to respond to its own consultation is unacceptable. Not only did this delay exacerbate tensions between an already polarised group of stakeholders, but it also caused real distress to many within the transgender community. The Government's own Consultation Principles make it clear that an explanation should be provided to stakeholders if a consultation response will not be issued within 12 weeks of the consultation closing. The GEO should have responded to its own consultation within the 12-week limitation, in line with the 2018 Government Consultation Principles document. Failing that, the GEO could and should have published a statement notifying stakeholders of its progress and reasons for the delay, especially given the sensitive nature of the consultation. It should have also indicated to stakeholders when a response was likely to be issued. (Paragraph 52)
5. The Government's reforms should improve the process for transgender people, whilst ensuring the appropriate safeguards for those with concerns. *The Government should bring back an action plan for reform to the Gender Recognition Act within 12*

weeks in those areas where there was a majority in support for it. This should be done specifically in relation to the spousal consent provision, the requirement to live in the acquired gender and the diagnosis of gender dysphoria. (Paragraph 59)

6. Ministers are fundamentally accountable to Parliament and have a duty to make themselves available for scrutiny by the House and its committees. The same applies, with certain qualifications, to other public servants and public officeholders. We are deeply disappointed by the approach taken by both the Government Equalities Office and the Equality and Human Rights Commission to this inquiry. We understand that the subject of Gender Recognition Act reform is controversial, contested and difficult. That does not mean that key bodies should shy away from engaging with the challenges it presents, or from connecting with stakeholders who hold views on the matter. Indeed, it makes it even more important that we should do so. The refusal of Government Equalities Office Ministers to attend our evidence session and properly engage with our inquiry is inexcusable. We appreciate that the Equality and Human Rights Commission has a core function as an enforcer. It also, however, has a responsibility to provide information, influence policy and be a catalyst for change. In our view, the Commission has neglected to adequately fulfil these functions in relation to Gender Recognition Act reform. It is a matter of deep regret that the Government and its public bodies have chosen to evade Parliamentary scrutiny on this contentious subject. (Paragraph 73)
7. The Government Equalities Office response to the consultation on the Gender Recognition Act was minimal and ignored areas where there was a majority in support for change. The Minister for Women and Equalities committed to reducing the fee, placing the process online and opening at least three new gender clinics in 2020. As the opening of the pilot clinics was already being driven by NHS England, the Minister truly only committed to reducing the fee and placing the process online. (Paragraph 74)
8. We remain frustrated at the degree of engagement by the Government Equalities Office and the Equality and Human Rights Commission. These key bodies have a vital role to play in enforcing and enacting real change in this area. They should be willing to participate in ongoing discussions with this Committee about the concerns of its stakeholders. We condemn the negligible engagement with our inquiry by both the Government Equalities Office Ministers and the EHRC, and the delay in response to the consultation which further polarised and toxified the debate. We call on the Ministers of the Government Equalities Office and the leadership of the EHRC to restate their commitment to cooperating with this Committee in all future inquiries. We also call on the Leader of the House, the Speaker of the House and the Chair of the Liaison Committee to respond to the concerns we have raised and take action to ensure that the Ministers comply in future with these accountability procedures and the Ministerial Code. (Paragraph 75)

The Gender Recognition Act 2004

9. We believe that the requirement of a diagnosis of gender dysphoria in order to obtain a Gender Recognition Certificate should be removed from the Gender Recognition Act, moving the process closer to a system of self-declaration. The legal recognition

process should not involve medical scrutiny but strong legal safeguards. Appropriate safeguards are essential to ensuring that the rights of natal women and the use of the single-sex and separate-sex exceptions in the Equality Act 2010 are protected. Therefore, it is appropriate to retain the statutory declaration, as well as introduce additional legal tests. It would also be possible to police statutory declarations more strictly, and to bring prosecutions for fraudulent declarations if it becomes apparent that the person had no real intention of living in the acquired gender. (Paragraph 96)

10. *The Government should remove the diagnosis of gender dysphoria from the Gender Recognition Act by 2023, reflecting the support for this in responses to its own consultation. It must ensure that appropriate safeguards are in place when doing so, including retaining the requirement for a statutory declaration. Robust guidance on how a system of self-declaration would work in practice should also be developed. For example, male prisoners with a record of sexual assault or domestic violence, who self-identify as a woman, should not be transferred to a woman's prison.* (Paragraph 97)
11. There are significant problems with the requirement to have lived in the acquired gender. There is no clear, accepted or agreed definition of what living like a man or a woman is. This makes it difficult for a person to demonstrate whether they are masculine or feminine enough to obtain a Gender Recognition Certificate. The requirement also risks entrenching outdated and unacceptable gender stereotypes. *The Government should remove the requirement to have lived for a set period of time in the acquired gender from the gender recognition process immediately.* (Paragraph 104)
12. The requirement for an applicant legally transitioning to complete a statutory declaration is an essential safeguard which ensures that they are doing so with genuine intent. We believe this requirement must be retained. We accept that there are cases where some individuals might regret their decision to legally transition. *We recommend that the wording of the statutory declaration be amended to permit people who have legally changed their gender identity to reverse their decision, should they so choose by removing the 'until death' requirement.* (Paragraph 110)
13. We have carefully considered the arguments for and against the spousal consent provision. The choice to transition by one spouse can, for some, fundamentally change the nature of the relationship and the marriage contract. The spouse of the person transitioning must be informed of their spouse's decision to change their legal sex. We understand the importance of the spousal consent provision and the availability of the option for annulment for some individuals, including those from religious communities where divorce and same-sex marriage is not regarded favourably. On balance, we do not believe that the lack of consent from a spouse to remain in the marriage after the legal transition should lead to delay in an individual obtaining a full Gender Recognition Certificate. The current system places the burden for obtaining consent, or an annulment, on the parties to the marriage or civil partnership through the issue of an interim certificate. This has created delay and unfairness, which has led to trans people saying that this denies their basic rights and agency over their own bodies, and places it in the hands of their spouses. (Paragraph 116)
14. *We recommend the requirement for spousal consent should be removed. When an application is made, the non-transitioning spouse should be notified by the body*

processing the application (currently the Gender Recognition Panel) that their transitioning spouse has applied for a Certificate. The non-transitioning spouse should be given the option to either remain married/in a civil partnership or have the marriage/civil partnership annulled. If the spouse opts for an annulment, or does not respond, the body granting the certificate should issue an annulment at the same time as a full Gender Recognition Certificate, subject to appropriate safeguards. The transitioning spouse should also have the option to annul the marriage or partnership but not before the granting body is satisfied that the non-transitioning spouse is aware of the process. The body issuing the certificate will need to be given the power to issue annulments. Any connected matters, such as applications by either spouse for a financial order, should be dealt with by the family courts. (Paragraph 117)

15. We agree with the Government Equalities Office that the age of 18 is the appropriate age at which an individual should be able to decide on whether they want to apply for legal gender recognition. Part of the process of applying for legal recognition is making a statutory declaration. It would not be appropriate to expect a minor to accept that responsibility. The age of 18 is a suitable age for a person to consider the current and future ramifications of legally transitioning and to be asked to make a statutory declaration. This is consistent with the law relating to other long-term, legally binding undertakings. (Paragraph 122)
16. We are aware that there has been a significant increase in the number of referrals to Gender Identity Development Services in recent years. We strongly believe that improved support is needed to help young people seeking to transition, especially mental health support. Young people should have access to services which work in tandem with gender identity clinics and allow them to discuss and explore their feelings about transitioning in detail. We welcome the work being undertaken in the Cass Review and look forward to reading its findings. (Paragraph 123)
17. Transparency around the operation and decision-making of the Gender Recognition Panel is a concern to many people applying for a Gender Recognition Certificate. It is clear to us that the existence of the Panel itself can, at times, discourage people from applying for a GRC. We believe that another system should exist in place of the Gender Recognition Panel which allows for greater transparency. We note Scotland's proposed changes to replace the Gender Recognition Panel with the Registrar General for Scotland and we believe this could be a move in the right direction. We heard conflicting evidence on whether the Gender Recognition Panel is providing the feedback that it is supposed to. We recommend that the Government conduct a review on whether the Gender Recognition Panel could be removed and replaced with the Registrar General for England and Wales, who already has a number of existing functions under the Gender Recognition Act. In the interim, more needs to be done to improve the transparency around the operation and role of the Panel. The GEO should satisfy itself that the Panel is carrying out its feedback requirements in line with the GRA and provide reassurance in response to this report. *We recommend that the Government conduct a review on whether the Gender Recognition Panel could be removed and replaced with the Registrar General for England and Wales, who already has a number of existing functions under the Gender Recognition Act. In the interim, more needs to be done to improve the transparency around the operation*

and role of the Panel. The GEO should satisfy itself that the Panel is carrying out its feedback requirements in line with the GRA and provide reassurance in response to this report (Paragraph 135)

18. Section 22 of the Gender Recognition Act is important. It ensures the privacy of transgender people by making it a criminal offence for a person who has acquired information about a person's GRC, in an official capacity, to disclose it without the transgender person's consent (except in limited circumstances). No prosecution has been brought under this section so far. We are concerned to hear about the fears many working in an official capacity have in relation to this provision, and we are not convinced that in all cases those handling GRC's should be subject to criminalisation where mistakes could be made. *We recommend that the Government amends section 22 of the Gender Recognition Act to ensure that only cases where there is evidence that the disclosure was deliberate and knowing, are covered.* (Paragraph 141)

The Equality Act 2010 and its interaction with the Gender Recognition Act 2004

19. *We reiterate our predecessor Committee's recommendation for better guidance on the single-sex and separate-sex exceptions and urge the Government Equalities Office and Equality and Human Rights Commission to publish this guidance, using worked examples and case studies from organisations providing these services. We also strongly recommend that the Government Equalities Office and Equality and Human Rights Commission urgently develop and publish guidance, in collaboration with trans rights groups, on best practice to provide trans and non-binary inclusive and specific services, including specifically relating to domestic violence and sexual abuse. This guidance should use worked examples and case studies from organisations providing these services.* (Paragraph 158)
20. *We recommend that the Government Equalities Office conduct a review into the use of the occupational requirement exception and how it is currently being applied. This review should consider the role of the GRA and how it interacts with the Equality Act and employment laws, and make recommendations to strengthen protections for trans and gender non-conforming people at work. Measures of progress and targets must be set to reduce and eliminate gender-based discrimination in the workplace.* (Paragraph 164)
21. Guidance on the application of the sports exception continues to be confused and inadequate, leaving many sports providers feeling unclear about its application. The Sports Council Equality Group has produced some guidance to try and bridge this gap. However, both the Government Equalities Office and Equality and Human Rights Commission have a responsibility to provide clarity in this area. *We recommend that the EHRC and GEO work with the Sports Council Equality Group to publish supplementary guidance that clearly and correctly addresses some of the main concerns sporting bodies have in relation to this exception, including under what circumstances it is acceptable to use the sports exception. We believe it is absolutely essential that the integrity of women's sport is maintained and not compromised, and that nothing should happen in this space which would undermine that. In addition,*

the EHRC and GEO must work with trans rights groups and sports providers to develop clear, evidence-based guidance with practical examples for how to facilitate trans and gender non-conforming inclusive spaces in sports. (Paragraph 170)

22. The conflation of the terms sex and gender in both the Gender Recognition Act and Equality Act has led to widespread confusion and disagreement. We welcome the Equality and Human Rights Commission guidance on sex and gender reassignment and believe it is clear in explaining the rights of those who have acquired a GRC in relation to the protected characteristics in the Equality Act. However, there is more work to be done. *The GEO should work to update the language in both acts in relation to sex and gender, ensuring consistency in the definitions used. It should be clear when an Act is referring to natal sex, legal sex and gender. The Government should also aim to update all official documents that conflate the terms sex and gender. (Paragraph 178)*
23. We recognise the importance of collecting and monitoring data on natal sex, especially in cases of equality monitoring. We also recognise the sensitivities around collecting and monitoring data on natal sex and the distress it can cause trans and gender non-conforming people. *The Government Equalities Office should work closely with trans rights groups and researchers. The Government Equalities Office should work closely with trans rights groups and researchers to develop clear guidelines around data collection in relation to sex and gender, with the aim of minimising such distress, particularly for publicly funded or mandated data such as the census. (Paragraph 181)*

Transgender Health

24. We commend the work undertaken by NHS England to open more gender identity clinics and welcome the announcement of the opening of a further two pilot clinics. We are, however, concerned to learn that waiting times for these clinics continue to be lengthy. There also appears to be a lack of clarity from NHS England over whether these pilot clinics will continue to remain open long-term. *We recommend that the GEO works closely with the Department for Health and Social Care and NHS England to ensure that NHS England maintain the five pilot gender identity clinics unless or until the time that more permanent facilities with greater capacity, geographical scope and powers can be established. No facility should be closed without another opening in its place to ensure waiting times are reduced. Given that NHS England has opened five pilot clinics in the last two years, the Equalities Minister should secure additional funding to ensure significant steps will be made over the next two years to reduce waiting list times. The Minister should work closely with NHS England to continue to open facilities in under-resourced areas to tackle lengthy waiting lists and provide other much needed services including mental health services. We would urge it to consider opening clinics in the West Midlands and the South West of England, given the lack of services in those regions. (Paragraph 189)*
25. *NHS England should also consider more appropriate and effective responses and services to patients facing lengthy waiting list times than the current communications. This must include access to trans/gender non-conforming inclusive or specific mental health services. The GEO, DHSC and NHS England should provide this Committee*

with annual updates on the progress of these developments, including the current pilot clinics, informing us of the impact they are having on waiting times and their targets to reduce them. (Paragraph 190)

26. There is undoubtedly an urgent need for more trained and specialist clinicians who have the knowledge and understanding to work in the growing number of gender identity clinics. We welcome NHS England's funding of a programme in gender dysphoria medicine. However, we are concerned that NHS England do not have enough specialist staff needed to run new clinics. We believe that there is a need to encourage NHS staff and medical students into this field in order to address the significant waiting times many people accessing these clinics face. *The Department of Health and Social Care should work with NHS England to attract more trainee doctors to specialise in gender identity healthcare.* (Paragraph 197)
27. We are aware that the COVID-19 pandemic has made access to primary healthcare more difficult for everybody, including transgender and non-binary people. In her response to the Gender Recognition Act Consultation, the Minister for Women and Equalities argued that the most important concern for transgender people was the state of transgender healthcare. However, we have seen no evidence that the Government Equalities Office is working to improve transgender and non-binary people's experience of primary healthcare. (Paragraph 214)
28. The Government Equalities Office and Department for Health and Social Care should develop a healthcare strategy for transgender and non-binary people within the next year. The strategy should include:
 - improved and mandatory training for GPs around treating trans and non-binary patients;
 - guidance for healthcare professionals, including how to communicate appropriately with patients who are trans or non-binary;
 - improved access to support services for trans and non-binary people.

Both departments should set out how they will measure progress across each of these areas in order to improve the experiences of trans and non-binary people. (Paragraph 215)

The LGBT Action Plan

29. We welcome confirmation from the Department of Health and Social Care that the LGBT Action Plan is considered a point of reference for the Department. However, we are concerned that the Government Equalities Office appears to have abandoned it. This demonstrates how disjointed the Government's approach to LGBT+ issues is. It is also concerning that the GEO is ignoring the valuable experiences and concerns of LGBT+ people across the UK. The Government's own LGBT Advisory Panel made it clear that the commitments in the LGBT Action Plan should continue to be implemented, before it was disbanded. *The Government should commit at the earliest possible opportunity to continuing the implementation of the LGBT Action Plan across all departments. It should also reinstate its LGBT Advisory Panel, to demonstrate willingness to implement the actions outlined in the Plan - driven by*

the data from the National LGBT Survey. We call on the Government to write to this Committee outlining the next steps in this work and providing a timetable by which they hope to achieve it. (Paragraph 221)

Non-binary Gender Recognition

30. When the previous Government launched its consultation into the reform of the Gender Recognition Act, it explicitly stated that one of its aims was to gather evidence to further advance equality for non-binary and intersex people. The LGBT Action Plan also made a commitment to improve the Government's understanding of the issues faced by non-binary. *The Government should clarify what the barriers are that prevent it from allowing non-binary people to be legally recognised. The Government should lay out reasons in writing to this Committee at the earliest possible opportunity, within a maximum of 12 weeks. The Equality and Human Rights Commission should undertake research in this area so that proposals to allow for legal recognition of non-binary people can be brought forward during this parliament. (Paragraph 226)*

Appendix A: Terminology

Pages 7–9 of the Government’s consultation document into the Reform of the Gender Recognition Act provides a list of terminology for readers. For consistency, we have used the same, which is set out below. As noted by the Government consultation document, no offence or omission is intended.

Acquired gender: The Gender Recognition Act 2004 describes this as the gender in which an applicant is living and seeking legal recognition. It is different from the sex recorded at birth and is instead, the gender the individual identifies with. It could be man or woman. While some people prefer to use ‘experienced’ or ‘confirmed’ gender rather than acquired gender, ‘acquired’ is used in this document due to its specific use in the Gender Recognition Act.

Equality Act 2010: An Act of Parliament that brought together a wide range of prior discrimination law and introduced several new provisions to further strengthen equality law. Amongst other things the Act places a duty on public bodies to have due regard to equalities considerations when developing policy and it sets out a number of ‘protected characteristics’ and prohibits discrimination on the basis of those characteristics. One of these, ‘gender reassignment’, affects trans people.

Full Gender Recognition Certificate: As distinct from an interim Gender Recognition Certificate. A full certificate shows that the holder has satisfied the criteria for legal recognition in their acquired gender, as set out in the Gender Recognition Act 2004. From the date of issue, the holder’s gender becomes the acquired gender for all purposes. Full certificates also entitle the individual to a new birth certificate issued with an updated sex marker.

Gender: Often expressed in terms of masculinity and femininity, gender refers to socially constructed characteristics, and is often assumed from the sex people are registered as at birth.

Gender identity: A person’s internal sense of their own gender. This does not have to be man or woman. It could be, for example, non-binary.

Gender dysphoria: A medical diagnosis that someone is experiencing discomfort or distress because there is a mismatch between their sex and their gender identity. This is sometimes known as gender identity disorder or transsexualism.

Gender presentation / Gender expression: A person’s outward expression of their gender. This may differ from their gender identity or it may reflect it.

Gender reassignment: A protected characteristic under the Equality Act 2010. A person 'has the protected characteristic of gender reassignment if the person is proposing to undergo, is undergoing or has undergone a process (or part of a 8 process) for the purpose of reassigning the person's sex by changing physiological or other attributes of sex.'

Subject to certain exceptions, the Equality Act 2010 prohibits discrimination because of gender reassignment, for example in employment or in the provision of services. This includes treating employees or service users less favourably because of a mistaken belief that the person is proposing to undergo, is undergoing or has undergone the process of reassigning their gender.

Gender Recognition Act 2004: An Act of Parliament that allows transgender people to gain legal recognition of their acquired gender, so long as that gender is a man or woman. Applications for legal recognition made under the Act are determined by a Gender Recognition Panel which applies the evidential requirements set out in the Act. Following legal recognition, an individual is entitled to a new birth certificate issued in the acquired gender and in law the person's gender becomes the acquired gender for all purposes.

Gender Recognition Panel: A panel of medical and legal members, administered by Her Majesty's Courts and Tribunal Service. The panel deals with all applications for legal gender recognition under the Gender Recognition Act 2004. If the applicant applies successfully then the Panel will issue a full or an interim Gender Recognition Certificate. Applicants do not meet the Panel in person as applications are paper based.

Interim Gender Recognition Certificate: As distinct from a full Gender Recognition Certificate. Interim certificates are issued to applicants that meet the criteria for legal recognition of their acquired gender as set out in the Gender Recognition Act 2004 but who need to end their marriage or civil partnership before a full certificate can be granted. The interim certificate can be used to enable the applicant or their spouse to end their marriage or civil partnership but has no legal significance or purpose beyond this.

Intersex: An umbrella term for people with sex characteristics (hormones, chromosomes and external/internal reproductive organs) that differ to those typically expected of a male or female. Intersex people may identify as male, female or nonbinary.

Legal recognition: In the context of gender this means that the person is recognised as being of his or her acquired gender, as opposed to the sex that was registered on that person's birth record when they were born.

Non-binary gender: An umbrella term for a person who identifies as in some way outside of the man-woman gender binary. They may regard themselves as neither exclusively a man nor a woman, or as both, or take another approach to gender entirely. Different people may use different words to describe their individual gender identity, such as genderfluid, agender or genderqueer.

Sex: Assigned by medical practitioners at birth based on physical characteristics. Sex can be either male or female.

Single or same sex services exception: These are terms used in relation to the Equality Act 2010, specifically paragraph 28 of Schedule 3. This paragraph allows service providers who are providing a service to men or women only, or providing services separately or differently to men and women, to act in a way that would otherwise be unlawful gender reassignment discrimination, if this is a proportionate means of achieving a legitimate aim. This might allow, for example, a domestic violence refuge for women to refuse entry to a trans person, provided it is proportionate to do so and the purpose is legitimate.

Transgender / Trans: Umbrella terms used to describe individuals who have a gender identity that is different to the sex recorded at birth. Non-binary people may or may not consider themselves to be trans. This consultation document primarily uses 'trans'.

Source:https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/721725/GRA-

Consultation-document.pdf

Formal minutes

Wednesday 15 December 2021

Members present:

Caroline Nokes, in the Chair

Philip Davies

Jackie Doyle-Price

Kim Johnson

Kate Osborne

Bell Ribeiro-Addy

Draft Report (*Reform of the Gender Recognition Act*), proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 95 read and agreed to.

Paragraph 96 read.

Amendment proposed to leave out “believe that” down to “legal safeguards”, and insert “have carefully considered the diagnosis of gender dysphoria and believe the diagnosis should be retained”. —(Jackie Doyle-Price)

Question put, That the Amendment be made.

The Committee divided.

Ayes	Noes
Philip Davies	Kim Johnson
Jackie Doyle-Price	Kate Osborne
	Bell Ribeiro-Addy

Question negatived.

Question put, That the paragraph stand part of the Report.

The Committee divided.

Ayes	Noes
Kim Johnson	Philip Davies
Kate Osborne	Jackie Doyle-Price
Bell Ribeiro-Addy	

Question accordingly agreed to.

Paragraph 97 read, as follows:

The Government should remove the diagnosis of gender dysphoria from the Gender Recognition Act by 2023, reflecting the support for this in responses to its own consultation. It must ensure that appropriate safeguards are in place when doing so, including retaining the requirement for a statutory declaration. It should also look to introduce additional legal tests before and after the granting of a GRC, as part of this safeguarding process. These tests could include refusing a GRC to be granted to any person who has been convicted of a violent or sexual offence and allowing for a GRC to be revoked, should the holder be convicted of a violent or sexual offence after being issued with a GRC. Clear guidance on how this would work alongside the single-sex and separate-sex exceptions in the Equality Act should also be issued. Robust guidance on how a system of self-identification would work in practice should also be developed. For example, male prisoners with a record of sexual assault or domestic violence, who self-identity as a woman, should not be transferred to a woman’s prison.

An Amendment proposed, to leave out “The Government” down to “own consultation”. —(Jackie Doyle-Price)

Question put, That the Amendment be made.

The Committee divided.

Ayes	Noes
Philip Davies	Kim Johnson
Jackie Doyle-Price	Kate Osborne
	Bell Ribeiro-Addy

Question negatived.

An Amendment proposed to leave out “It should also” down to “be issued”. —(Kim Johnson)

Question put, That the Amendment be made.

The Committee divided.

Ayes	Noes
Kim Johnson	Philip Davies
Kate Osborne	Jackie Doyle-Price
Bell Ribeiro-Addy	

Question accordingly agreed to.

Question put, That the paragraph, as amended, stand part of the Report.

The Committee divided.

Ayes	Noes
Philip Davies	Jackie Doyle-Price
Kim Johnson	
Kate Osborne	
Bell Ribeiro-Addy	

Question accordingly agreed to.

Paragraphs 98 to 220 read and agreed to.

Paragraph 221 read, as follows:

We welcome confirmation from the Department of Health that the LGBT Action Plan is considered a point of reference for the Department. However, we are concerned that the Government Equalities Office appears to have abandoned it. This demonstrates how disjointed the Government's approach to LGBT+ issues is. It is also concerning that the GEO is ignoring the valuable experiences and concerns of LGBT+ people across the UK. The Government's own LGBT Advisory Panel made it clear that the commitments in the LGBT Action Plan should continue to be implemented, before it was disbanded. The Government should commit to continuing the implementation of the LGBT Action Plan across all departments. If it is no longer committed to the Action Plan, it should explain why, and make clear why it has chosen to move forward with only two of the commitments contained within it. It should outline what it will do in place of the Action Plan and how it plans to use the data from the National LGBT Survey to inform its work.

An Amendment proposed to leave out “However” down to “inform its work” and insert “We recommend that the Government clarify the status of the LGBT Action Plan across all Government departments and confirm whether it is still a live document”—(Jackie Doyle-Price)

Question put, That the Amendment be made.

The Committee divided.

Ayes	Noes
Philip Davies	Kim Johnson
Jackie Doyle-Price	Kate Osborne
	Bell Ribeiro-Addy

Question negatived.

An Amendment proposed to leave out “The Government” down to “inform its work” and insert “The Government should commit at the earliest possible opportunity to continuing the implementation of the LGBT Actin Plan across all departments. It should also reinstate its LGBT Advisory Panel, to demonstrate willingness to implement the actions outlined in the pan – driven by the data from the National LGBT Survey. We call on the Government to write to this Committee outlining the next steps in this work and providing a timetable by which it hopes to achieve it”—(Kim Johnson)

Question put, That the Amendment be made.

The Committee divided.

Ayes	Noes
Kim Johnson	Philip Davies
Kate Osborne	Jackie Doyle-Price
Bell Ribeiro-Addy	

Question accordingly agreed to.

Question put, That the paragraph, as amended, stand part of the Report.

The Committee divided.

Ayes	Noes
Kim Johnson	Philip Davies
Kate Osborne	Jackie Doyle-Price
Bell Ribeiro-Addy	

Question accordingly agreed to.

Paragraphs 222 to 225 read and agreed to.

Paragraph 226 read.

Amendment proposed after “legally recognised” to insert “The Government should lay out its reasons in writing to this Committee at the earliest possible opportunity, within a maximum of 12 weeks.”—(Kim Johnson)

Question put, That the Amendment be made.

The Committee divided.

Ayes	Noes
Kim Johnson	Philip Davies
Kate Osborne	Jackie Doyle-Price
Bell Ribeiro-Addy	

Question accordingly agreed to.

Question put, That the paragraph, as amended, stand part of the Report.

The Committee divided.

Ayes	Noes
Kim Johnson	Philip Davies
Kate Osborne	Jackie Doyle-Price
Bell Ribeiro-Addy	

Question accordingly agreed to.

Question put, That the Report be the Third Report of the Committee to the House.

The Committee divided.

Ayes	Noes
Kim Johnson	Philip Davies
Kate Osborne	Jackie Doyle-Price
Bell Ribeiro-Addy	

Question accordingly agreed to.

Ordered, That the Chair make the Report to the House.

Ordered, That embargoed copies of the Report be made available (Standing Order No. 134).

[Adjourned till Wednesday 5 January 2022 at 4.00pm

Witnesses

The following witnesses gave evidence. Transcripts can be viewed on the inquiry publications page of the Committee's website.

Wednesday 09 December 2020

Professor Stephen Whittle OBE, Professor of Equalities Law, Manchester Metropolitan University, Vice President and Head of Legal Services, Press for Change; **Professor Alex Sharpe**, Professor at the School of Law, University of Warwick; **Dr Ruth Pearce**, Research Coordinator, Trans Learning Partnership, Visiting Researcher in the School of Sociology and Social Policy, University of Leeds Q1–19

Professor Rosa Freedman, Professor of Law Conflict and Global Development, University of Reading; **Dr Kathleen Stock**, Professor of Philosophy, University of Sussex; **Professor Alice Sullivan**, Professor of Sociology, University College, London Q 20–45

Wednesday 10 February 2021

Karon Monaghan QC, Barrister, Matrix Chambers; **Robin White**, Barrister, Old Square Chambers; **Naomi Cunningham**, Barrister, Outer Temple Chambers; **Sally Brett**, Head of Diversity and Inclusion, The Law Society Q46–94

Wednesday 17 March 2021

Nancy Kelley, Chief Executive Officer, Stonewall; **Lui Asquith**, Director of Legal and Policy, Mermaids; **Cat Burton**, Chair, Gender Identity Research and Education Society; **Dr Jane Hamlin**, President, Beaumont Society Q96–123

Wednesday 21 April 2021

Dr Nicola Williams, Director, Fair Play for Women; **Dr Judith Green**, Co-founder, Woman's Place UK; **Raquel Rosario-Sanchez**, Spokeswoman and Trustee, FiLiA Q124–165

Wednesday 12 May 2021

Dr Harriet Hutchinson, Community Organiser, Action for Trans Health Durham; **Dr John Chisholm CBE**, Chair of the Medical Ethics Committee, British Medical Association Q166–185

Dr Michael Brady, National Adviser for LGBT Health, NHS England; **John Stewart**, National Director of Specialised Commissioning, NHS England; **Leigh Chislett**, Clinical Manager, 56 Dean Street Q186–217

Wednesday 16 June 2021

The Baroness Falkner of Margravine, Chair, Equality and Human Rights Commission; **Melanie Field OBE**, Executive Director for Policy, Strategy and Wales, Equality and Human Rights Commission Q218–257

Jo Churchill MP, Parliamentary Under Secretary, Department of Health and Social Care Q258–287

Published written evidence

The following written evidence was received and can be viewed on the inquiry publications page of the Committee's website.

GRA numbers are generated by the evidence processing system and so may not be complete.

- 1 Ali Ceesay; and Sarah Crofts (GRA1671)
- 2 BYOU Scott Williams; and BYOU Karen Campbell (GRA1019)
- 3 Dr Jonathan Mowll; and Mrs Lydia Mowll (GRA1711)
- 4 Dr Katie Clyde; and Dr Lucy Griffin (GRA1320)
- 5 Gender Concerned Quakers; and Gender Concerned Quakers (GRA1941)
- 6 Michael Dyson; Angela Dyson; Francis Dyson; and Joan Dyson (GRA0836)
- 7 Mr. Geoffrey Bacon; and Worsley (GRA0553)
- 8 Ms Una-Jane Winfield (GRA0087)
- 9 Ms Claire Harvey; and Mr Krishna Omkar (GRA1695)
- 10 Ms J L; and X (GRA1688)
- 11 Ms Lauren Hamstead ; and Ms Julie Furlong (GRA0785)
- 12 Ms S J Atherton; Dr C Brooks; and Ms S Dinshaw (GRA0871)
- 13 Mx Kirrin Medcal; and Mx Bon O'Hara (Group Member, Non-binary London) (GRA1192)
- 14 Professor Alice Sullivan; Dr Amanda Gosling; Professor Nick Allum; Professor Tarani Chandola; Dr Colin Mills; and Professor Lindsay Paterson (GRA0992)
- 15 :Professor Rosa Freedman; Professor Kathleen Stock; and Professor Alice Sullivan (GRA2021)
- 16 A B (GRA1038)
- 17 A New Normal Ltd (GRA1243)
- 18 A Woman's Work (GRA1398)
- 19 Abbey, Mr Nicholas (GRA0342)
- 20 Abbey, Ms Alexandra (GRA0288)
- 21 Ace, Ms Amber (GRA1344)
- 22 Action for Trans Health Durham (GRA1324)
- 23 Adair, Cllr Phoenix (GRA0070)
- 24 Aikman, Ms Rosemary (GRA0786)
- 25 Albury, (GRA1337)
- 26 Allan, (GRA0494)
- 27 Allan, Thom (GRA1908)
- 28 Allen, Dr Sophie (GRA0791)
- 29 Allen, Mr John (GRA0808)
- 30 Allen, Ms (GRA1349)
- 31 Allen, Ms J (GRA1854)

- 32 Amery, Dr Fran (GRA0825)
- 33 Amies, Ermine (GRA1944)
- 34 Amnesty International UK (GRA0893)
- 35 Andi, (GRA1885)
- 36 Annison, D (GRA1549)
- 37 Anonymised (GRA0230)
- 38 Anonymous, (GRA0159)
- 39 Anonymous, (GRA0410)
- 40 Anthony, Mr (GRA0429)
- 41 Anthony, Mr Connor Michael (GRA0157)
- 42 Antonio, Jennie (GRA1122)
- 43 Antoniwi, Haydn (GRA0977)
- 44 Armes, Chloe (GRA1919)
- 45 Armstrong, (GRA1982)
- 46 Ascencio, Mx Jad (GRA0155)
- 47 Atay, Mx Star (GRA0468)
- 48 Atherton, Ms Helen (GRA2007)
- 49 Authentic Equity Alliance (GRA2019)
- 50 BEM, S. J. Groenewegen (GRA1360)
- 51 BMA (British Medical Association) (GRA1504)
- 52 BROWN, MR STUART (GRA0411)
- 53 Badams, Mr Rod (GRA1434)
- 54 Bailey, (GRA1440)
- 55 Bailey, Allison (GRA1656)
- 56 Bailey, Ms (GRA1935)
- 57 Baker, Mr M (GRA0541)
- 58 Baker, Mx Ruby Dawn (GRA0171)
- 59 Bambrook, Ms Austyn (GRA1348)
- 60 Bambrough, Mr Callum James (GRA1161)
- 61 Bane, Kiera (GRA0883)
- 62 Bann, Ms C (GRA1427)
- 63 Barker, J (GRA0420)
- 64 Barnardo's (GRA1547)
- 65 Barnsdale, David (GRA0313)
- 66 Barton, Mr (GRA0308)
- 67 Bateman, Miss Emma (GRA1987)
- 68 Baxter, Dr Trevor (GRA0381)
- 69 Bayswater Support Group (GRA1508)

- 70 Beaumont Society (GRA0926)
- 71 Beber, Mr Simon (GRA0394)
- 72 Belcher, Ms Helen (GRA0814)
- 73 Belderson, Ms Lindsay (GRA0546)
- 74 Ben, (GRA1463)
- 75 Benjamin, Dr Shereen (GRA1951)
- 76 Bennett, Aine (GRA0823)
- 77 Bent Bars Project (GRA1050)
- 78 Berridge, Ms Judith (GRA0876)
- 79 Berrie, Jane (GRA0074)
- 80 Berrill, Ms Laura (GRA0001)
- 81 BiCon Continuity (GRA1932)
- 82 Biggs, Dr Michael (GRA0906)
- 83 Billingham, Mr James (GRA1422)
- 84 Billingham, Paul and Rebecca (GRA0721)
- 85 Birley, Dr Jan (GRA0393)
- 86 Birmingham LGBT (GRA1540)
- 87 Blacklock, Rachel (GRA0963)
- 88 Blair, Eleanor (GRA0272)
- 89 Bobak, (GRA1927)
- 90 Bond, (GRA1966)
- 91 Bondi, Alice (GRA1193)
- 92 Bone, Mr (GRA1964)
- 93 Boon, Mx Edie (GRA1127)
- 94 Borowski, John (GRA0532)
- 95 Bowcock, (GRA0367)
- 96 Bowden, Mr Ernest (GRA0830)
- 97 Bowers, Dr Thomas (GRA1594)
- 98 Bowyer, Ms Rachel (GRA1483)
- 99 Box, Mr Christopher (GRA0387)
- 100 Bradley, Ms Gillian (GRA0929)
- 101 Bradley, Nerida (GRA0226)
- 102 Brady, Mr Rhodri (GRA0242)
- 103 Brighton Resisters (GRA0933)
- 104 British Youth Council (GRA1612)
- 105 Brittain, Mx Em-Seth (GRA0025)
- 106 Bromley, (GRA1766)
- 107 Brown, (GRA0196)

- 108 Brown, Mr Chay (GRA1583)
- 109 Bunter, helen (GRA0054)
- 110 Buet, Mx Jules (GRA0073)
- 111 Burn, Ms Cassie (GRA0191)
- 112 Burn, Mx Jodi M (GRA0792)
- 113 Burr, Mrs Nicola (GRA1916)
- 114 Burt, Ms Helen (GRA1307)
- 115 Butler, Mx Kaye (GRA1963)
- 116 Buttolph, (GRA1659)
- 117 Bye, Revd Paul (GRA1421)
- 118 Byng, Professor Richard (GRA1913)
- 119 Cambridge Student Union's LGBT+ Campaign; and Cambridge Student Union's Women's Campaign (GRA1373)
- 120 Cameron, Mx J (GRA0052)
- 121 Campaign for Common Sense (GRA0870)
- 122 Campbell, Ms Joanna (Carer, Urban Angels) (GRA0402)
- 123 Campbell, Miss Mairead (GRA0076)
- 124 Canning, Mr James (GRA0327)
- 125 Capelin, Miss D (GRA0085)
- 126 Cardew, Ms Sydney (GRA1722)
- 127 Carnall, Jane (GRA0012)
- 128 Carswell, Mr Roger (GRA0328)
- 129 Casey, Rory (GRA0971)
- 130 Cassidy, Daniel (GRA1706)
- 131 Catterall, Ms Hannah Elspeth (GRA0028)
- 132 Celine, Ms (GRA1631)
- 133 Centre for Crime and Justice Studies (GRA0608)
- 134 Centre for Gender Studies, University of Sussex; Trans and Non-Binary staff network, University of Sussex; Centre for the Study of Sexual Dissidence, University of Sussex; and LGBT+ staff network, University of Sussex (GRA0970)
- 135 Centre for Transforming Sexuality and Gender (CTSG) at the University of Brighton (GRA1388)
- 136 Chaplin, Miss Juliet (GRA0640)
- 137 Chapman, Dr Elizabeth (GRA1714)
- 138 Chard, Mr (GRA1002)
- 139 Christian Concern (GRA1325)
- 140 Christina, The Revd Dr (GRA0920)
- 141 Churchhouse, Jemima (GRA0996)
- 142 Clare-Young, Revd. Alex (GRA0058)

- 143 Clark, Avril (GRA0421)
- 144 Clarke, Mr David (GRA0376)
- 145 Clarke, Ms Hannah (GRA0205)
- 146 Cockcroft, Ms (GRA0089)
- 147 Cole, Ms Courtney (GRA0643)
- 148 Collins, Arah (GRA0292)
- 149 Condon, (GRA0695)
- 150 Congleton Pride (GRA0856)
- 151 Conservatives For Women (GRA0960)
- 152 Cook, Michael (GRA1117)
- 153 Cook, Mr Stephen (GRA1652)
- 154 Cooke, Dr Geoffrey (GRA1153)
- 155 Cooke, Ms Hilary (GRA1203)
- 156 Copeman, mr Andrew K (GRA1061)
- 157 Cotter, Prebendary Graham (GRA0862)
- 158 Cottingham, Mr (GRA1317)
- 159 Couch, Mr. Patrick (GRA0274)
- 160 Couch, Paul (GRA0131)
- 161 Cowan, Professor Sharon (GRA1544)
- 162 Cowlin, Lucy (GRA1758)
- 163 Cox, Mr Robert (GRA0491)
- 164 Cox, Mr Steven (GRA1802)
- 165 Critchley, Michael (GRA0248)
- 166 Croft, Simon (GRA0451)
- 167 Crompton, Dr Peter (GRA0352)
- 168 Crow, Mrs Jean (GRA0900)
- 169 Cummings, Ms S (GRA1748)
- 170 Cunningham, Naomi (GRA1698)
- 171 Dahlen, Dr Sara (GRA1355)
- 172 Daley, Quinn (GRA0190)
- 173 Dallaway, Mx Genie (GRA0013)
- 174 Daniels, Mrs T (GRA0964)
- 175 Danskin, Miss Tyla (GRA0178)
- 176 Davidson, Ms Andie (GRA0141)
- 177 Davies, (GRA1095)
- 178 Davies, (GRA0877)
- 179 Davies, Mr Stephen (GRA0653)
- 180 Day, Sam (GRA1537)

- 181 De, Ms (GRA0461)
- 182 Deacon, Mr Trevor (GRA0938)
- 183 Deane, Mrs Rachel (GRA0519)
- 184 Dell, Natalya (GRA0763)
- 185 Devine, Cathy (GRA1160)
- 186 Dexter, Ms Alexis (GRA0053)
- 187 Dibble, Miss Michelle (GRA0099)
- 188 Dibble, Miss Michelle (GRA0113)
- 189 Dickson, E (GRA0168)
- 190 Dillon, Ms Shonagh (GRA0895)
- 191 Disability Action Group, University of Bath SU (GRA0953)
- 192 Doe, MRs Jane (GRA0033)
- 193 Doncker, Noor De (GRA0212)
- 194 Donoghue, Mrs Helen (GRA0459)
- 195 Drummond, Miss B (GRA0088)
- 196 Duckett, T (GRA0380)
- 197 Dundas, Mr Philip (GRA1448)
- 198 Dunkley, Ms Martha (GRA1950)
- 199 Dunlop, Alex (GRA1979)
- 200 Dyer-Evans, Mr Michael (GRA0037)
- 201 dxw (GRA0711)
- 202 Earnshaw, Dr Hannah (GRA1720)
- 203 Eastwood, John Geoffrey (GRA0481)
- 204 Eaton, K (GRA0644)
- 205 Echo, Ms Eva (GRA0540)
- 206 Eckersley, Miss Kimberly (GRA0798)
- 207 Edinburgh Queer Collective (GRA0304)
- 208 Edinburgh University Students' Association (GRA1300)
- 209 Edward, Mr Geoffrey Lewis (GRA1980)
- 210 Edwards, Mr Brian (GRA0614)
- 211 Edwards, Mr Malcolm (GRA1833)
- 212 Edwards, Ms Emma (GRA0185)
- 213 Egan, MS Alice (GRA0180)
- 214 Elan-Cane, Pr Christie (GRA0199)
- 215 Elizabeth, (GRA1064)
- 216 Elliot, Mr (GRA0320)
- 217 Ellis, Dr Chris (GRA0136)
- 218 Ellis, Mr. Stuart (GRA0347)

- 219 Ellse, Mrs Chris (GRA0647)
- 220 Elston, Chris (GRA0407)
- 221 Em, Dr (GRA1687)
- 222 Emmens, Dr H (GRA1838)
- 223 Employment Lawyers Association (GRA1668)
- 224 Encompass Network (GRA0944)
- 225 England, Ms J (GRA0447)
- 226 English Collective of Prostitutes (GRA1743)
- 227 Entwistle, Dr Kirsty (GRA1841)
- 228 EqualiTeach CIC (GRA0949)
- 229 Equality Network/Scottish Trans Alliance (GRA0881)
- 230 Erswell, Mr R G (GRA1469)
- 231 Evangelical Alliance UK (GRA1461)
- 232 Evans, Jessica R. (GRA1795)
- 233 Evans, Miss Margaret (GRA0145)
- 234 F (Technical Architect, dxw) (GRA0520)
- 235 fae, Ms Jane Francesca (GRA1318)
- 236 Fair Play for Women (GRA0851)
- 237 Fairley, Mx Becky Scott (GRA0118)
- 238 Fairman, Ms Emily Constance (GRA1495)
- 239 Falconer, Ms Holly (GRA1848)
- 240 Family Education Trust (GRA0704)
- 241 Farmer, Nic (GRA0210)
- 242 Faro, Ms Cristina (GRA1232)
- 243 Faye, Miss Alyx (GRA0955)
- 244 Feminist, Socialist (GRA1907)
- 245 Fenn, Ms Katie (GRA0783)
- 246 Ferguson, Aiden (GRA1781)
- 247 FiLiA (GRA0803)
- 248 Fisher, Mr (GRA1610)
- 249 Flannery, Mr John (GRA0626)
- 250 Fleck, Miss Pauline (GRA0114)
- 251 Forbes, Mr Alain (GRA1912)
- 252 Ford, Hannah-Rose (GRA0991)
- 253 Fortt, Mrs Wendy (GRA0907)
- 254 Forward (Stockport LGBT+ Centre CIC) (GRA1342)
- 255 Fox, Miss Amber (GRA1418)
- 256 Franklin, Mx D (GRA1740)

- 257 Freeland, Rev David (GRA1362)
- 258 Frith, Mr Beckett (GRA1403)
- 259 GMB Union (GRA1704)
- 260 Galop (GRA1614)
- 261 Gardner, Ms J (GRA0710)
- 262 Gardner, Ms Jessica (GRA1593)
- 263 Garner, Elizabeth (GRA0675)
- 264 Garnett, Mr Christian (GRA1008)
- 265 Garnett, Mr Henry (GRA0665)
- 266 Garrod, (GRA1959)
- 267 Gascoigne, Mollie (GRA0259)
- 268 Gellner, Sarah (GRA1692)
- 269 Gender Identity Research & Education Society (GRA1479)
- 270 GenderGP, (GRA2025)
- 271 Gendered Intelligence (GRA1485)
- 272 Geraghty, Mx Kit (GRA0414)
- 273 Ghul, Ms Rayya (GRA0263)
- 274 Giachardi, Mr (GRA0598)
- 275 Gilchrist, Dr Susan (GRA1590)
- 276 Gill, Ms Jayne (GRA0892)
- 277 Gills, Miss Kali-Ann (GRA0081)
- 278 Goodenough, W (GRA0370)
- 279 Gott, Mrs (GRA0151)
- 280 Gould, C (GRA0621)
- 281 Goulding, Mr Thomas (GRA0730)
- 282 Gray, Anna (GRA1560)
- 283 Gray, Dr Trevor (GRA0403)
- 284 Gray, Judge Paula (GRA2026)
- 285 Gray, Judge Paula (GRA2023)
- 286 Gray, Judy (GRA0654)
- 287 Greatrex, Mr Derek (GRA0456)
- 288 Green Feminists Women and Girls Declaration (GRA1233)
- 289 Green, E (GRA1155)
- 290 Green, Ms J (GRA1778)
- 291 green, Ms Susan (GRA1301)
- 292 Grenfell, (GRA1027)
- 293 Greywood, (GRA1047)
- 294 Griffiths, Mrs Jennifer (GRA0824)

- 295 Grimwade, Mrs Christina (GRA1428)
- 296 Grosvenor, Mrs Jennifer (GRA0143)
- 297 Grover, Miss Sally (GRA0525)
- 298 Gulliford, Mrs Carol (GRA0716)
- 299 Gupta, Dr Kat (GRA1567)
- 300 Gutt, Dr Blake (GRA1807)
- 301 Gutteridge, Segregation Christopher (GRA0078)
- 302 Haddow, Rev Graham (GRA0318)
- 303 Hagger-Holt, Sarah (GRA0062)
- 304 Hakim, Amy (GRA1443)
- 305 Hale, Dr Lisa (Scientist, LifeArc) (GRA1682)
- 306 Hall, Mrs (Teacher, Scottish Council) (GRA1592)
- 307 Hall, Mx Graysen Giovanni (GRA1030)
- 308 Hallam, Miss Gemma (GRA1559)
- 309 Hamilton, Ms Emily (GRA1057)
- 310 Hammill, Luke (GRA1752)
- 311 Hardman, Ms Rebecca (GRA1263)
- 312 Hardman-Clark, Miss Elsa (N/A, n/a) (GRA0051)
- 313 Hardy, Mrs Anne (GRA1689)
- 314 Harper-Wright, Anne (GRA1746)
- 315 Harrison, Mr Kit (GRA1555)
- 316 Hart, (GRA0807)
- 317 Hart, Nova (GRA0055)
- 318 Harverson, Dr Godfrey (GRA0241)
- 319 Hatwell, Ms Jessica (GRA0634)
- 320 Hawker, (GRA0512)
- 321 Hawking, Miss I (GRA0508)
- 322 Hayat, Mr Imran Asim (GRA1140)
- 323 Hayes, Ms Dawn (GRA1686)
- 324 Hayton, Dr Deborah (GRA0438)
- 325 Hayton, Dr Stephanie (GRA0129)
- 326 Headley, Connor (GRA0261)
- 327 Heaney, Miss Debbie (GRA0046)
- 328 Hennes, Alan (GRA1442)
- 329 Henty, Mr David (GRA1488)
- 330 Hervey, Josella (GRA0084)
- 331 Hibbert, Mr Adam (GRA0863)
- 332 Hickman, Mr Jonathan (GRA0301)

- 333 Higham, Eileen (GRA0587)
- 334 Hiley, Mrs. Katy (GRA0764)
- 335 Hill, Ms Eleanor (GRA1654)
- 336 Hills, Miss Rebecca Alice (GRA1741)
- 337 Hilton, Ms Amanda (GRA0022)
- 338 Hilton, Mx Alex (GRA1021)
- 339 Hobbs, Cal Singer (GRA1142)
- 340 Hodges, Mr Eric (GRA0842)
- 341 Hodgson, Ms Teresa Ellayn (GRA1467)
- 342 Hodson, Ms Nicola (GRA0460)
- 343 Hollows, Mr David (GRA0703)
- 344 Holt, Danny (GRA0100)
- 345 Honhold, Dr Naomi (GRA1033)
- 346 Hooker, Mx Jay (GRA1410)
- 347 Horne, Miss Sophie (GRA1170)
- 348 Huddersfield Students' Union (GRA1278)
- 349 Hudson, W (GRA0224)
- 350 Hughes, Dr Xan (GRA1165)
- 351 Hughes, Mr John (GRA0493)
- 352 Humphrey, (GRA0945)
- 353 Hutchison, mr Nathan (GRA0281)
- 354 Iacob, Mx Sammy (GRA0425)
- 355 Inglis, Scott (GRA0172)
- 356 InterLaw Diversity Forum; and LGBT+ Network of InterLaw Diversity Forum (GRA1792)
- 357 Irvine, Ms Robyn Alexandra (GRA0111)
- 358 J H, Ms (GRA1753)
- 359 Jackson, Mr J (GRA1999)
- 360 James, Mr Glyn (GRA0599)
- 361 Jaspert, Bea (GRA0746)
- 362 Jeet, Ms (GRA1182)
- 363 Johannson, Hana (GRA1891)
- 364 John, (GRA1566)
- 365 Johns, Mx. Jay (GRA1401)
- 366 Johnson, Ms Sue X (GRA0800)
- 367 Johnston, Ms Katherine (GRA0057)
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