

Response to the Scottish Government's Consultation on Reviewing the Gender Recognition Act (2004)



This document shows how Christian Concern has responded to the Scottish Government's consultation on reviewing the Gender Recognition Act.

Information about the consultation and how to respond to it may be found here:

<https://consult.gov.scot/family-law/review-of-the-gender-recognition-act-2004/>

The deadline for responding is 5pm 1st March 2018.

You can make your own response to the consultation using this link:

<https://consult.gov.scot/family-law/review-of-the-gender-recognition-act-2004/consultation/subpage.2016-07-07.1474135251/>

We encourage as many people as possible to respond to this consultation. Feel free to use the points we make as a guide, but also to make your own points and use your own words.

Background to the consultation

The Scottish Government launched a consultation on reforming the Gender Recognition Act (2004) on 9 November 2017. It [asks](#) 'whether and how the Gender Recognition Act should be amended in relation to the law in Scotland.' The [Fairer Scotland Action Plan](#) published by the Scottish Government in 2016 had indicated that this would take place, and that the aim was to 'cover establishing new arrangements for dealing with applications for legal gender recognition and the minimum age at which applications for gender recognition could be made.' The intention is for 'arrangements [to be] in place by 2020.' The [Programme for Government for 2017-2018](#) published by the Scottish Government also promised a consultation on this topic. It is clear from the consultation document that the intention is to make it easier for people to gain recognition as members of the opposite gender, to lower the age at which this can happen to under 18 and even 16, and to remove the current legal requirement for a married person to obtain the consent of the non-transgender spouse before obtaining gender recognition. This is a very grave and alarming situation that would have repercussions not only in Scotland but across the United Kingdom, and as such we have produced a lengthy response which is published below.

Question 1. The initial view of Scottish Government is that applicants for legal gender recognition should no longer need to produce medical evidence or evidence that they have lived in their acquired gender for a defined period. The Scottish Government proposes to bring forward legislation to introduce a self-declaration system for legal gender recognition instead.

Do you agree or disagree with this proposal?

We disagree with self-declaration. In this respect it looks as if most people living in Scotland agree with us, as per the survey conducted in January 2018 by Wings Over Scotland.

<https://wingsoverscotland.com/the-law-that-nobody-wants/>

We believe that all people need to be helped to be at home in the bodies of their biological sex. Allowing self-declaration moves society as a whole, including all public sector bodies receiving taxpayers' money, away from this goal and thus there will be negative consequences all around. The causes of gender dysphoria are varied and well-attested, often pointing to neglect, abuse or poor parenting and socialisation, as well as the power of suggestion from various media and people known to patients. There are also cases where people with underlying psychiatric conditions which may produce delusions also come to suffer from gender dysphoria.

The annual statistics for Gender Recognition published by the Ministry of Justice show a small number of people whose applications for a Gender Recognition Certificate have been rejected. It is reasonable to ask whether these are the core of the population who want gender self-declaration in the law.

Calling medical checks 'intrusive' is unreasonable

The claim that medical checks are 'intrusive' and 'offensive' has no real basis and is unacceptable given that for many years transsexual (transgender) rights activists used the medical definition of transsexualism to gain rights through the courts. As a consequence Northwest Lancashire Health Authority lost an appeal against three activists and was prohibited from refusing to provide 'sex-change' treatment at taxpayers' expense.

North West Lancashire Health Authority v A & Ors [1999] EWCA Civ 2022 (29 July 1999)

This then led to 'sex-change'/gender reassignment treatment being available throughout the NHS from 1999 onwards. Since then millions of pounds of taxpayers' money has been spent on this treatment. It really is the height of hypocrisy now to claim that 'medical checks' are 'intrusive' and 'offensive'.

The Scottish Government should come clean about some of the underlying reasons for the shift in the UK – and indeed across the western world – from 'transsexual rights' based on a medical definition of it as a mental illness for which the only solution is said to be physical transformation of the body to match the patient's

mindset, to 'transgender rights' based on self-declaration and no requirement for primary sexual characteristics (genitals) to be removed.

On the medical side is the fact that very few doctors are trained in the field of gender reassignment surgery, and that this situation is unlikely to change. Thus demand for gender reassignment now outstrips NHS capacity and for many reasons this is very unlikely to change.

We are well aware that it was the 2012/2013 NHS Scotland Protocol and Service Specification Scottish, following the 7th edition of the WPATH guidelines, that allowed GPs to refer patients straightaway to gender identity clinics, thus enabling them to avoid initial assessment by general psychiatrists in local NHS trusts. We note that this Protocol soon became the basis for a similar Protocol in NHS England.

<https://www.england.nhs.uk/wp-content/uploads/2013/10/int-gend-proto.pdf>

Unforeseen medical risks and the pathologisation of puberty

If there is no requirement for medical evidence, the problem of people passing through the system whilst serious psychiatric conditions go undetected, all because Scotland permits patients to refer themselves to gender identity clinics, and to bypass initial NHS psychiatric assessment, will only get worse. In addition if the age of gender recognition is lowered below 18, children and young people with undiagnosed or undetected psychiatric disorders as well as Disorders of Sexual Development may be rushed through gender recognition without adequate medical care. **This would constitute medical negligence and a human rights violation.**

Puberty is not a disease; it is a perfectly normal, healthy and necessary part of human development for both sexes. Allowing gender recognition for people under 18 will only exacerbate the pathologisation of puberty.

It seems that if self-declaration policy is adopted, there will be no need for medical checks. Thus there will surely be no need for NHS-funded, i.e. taxpayer-funded Gender clinics in Scotland any more. Does the Scottish Government plan to close down the Gender Clinics in Scotland or not?

Well-known criminal risks

It is very telling that paragraph 3.9.7 of the consultation document admits that in countries that have introduced gender self-declaration, the number of applicants has risen. This would have a negative effect on society in a number of ways, as has already been seen with regard to dangerous criminals, including in Scottish prisons. **The Scottish government is out of order in ignoring the issue of prisons and other single-sex premisses in this consultation.** In light of this it is absolutely outrageous that the consultation document considers that self-declaration would increase the annual number more than tenfold (from the current average of 25 people per year to an anticipated 250 to 400 a year).

As is well-known there are entire blogs and social media accounts devoted to collecting news about dangerous cases of males claiming to be 'women'. It is useless to claim that they are 'pretending to be transgendered'. Mostly they are not, and indeed 'identify' as transgendered.

<http://transcrimeuk.com/>

<https://bannedbytrans.wordpress.com/masterpost/>

We are also very concerned that gender self-identification would facilitate legal recognition of transvestism as a 'right'. This is because the only two existing studies of the prevalence of transvestic fetishism in the western world, conducted in Sweden in 2005 and Quebec in 2016 respectively, suggest an increase in society and a correlation with voyeurism, exhibitionism, BDSM and use of pornography. These are profoundly anti-social tendencies and in the first two cases are criminal, and highly relevant to our opposition to the proposed changes to the Gender Recognition Act on the grounds that they would effectively make single-sex spaces gender-neutral spaces.

Niklas Långström and Kenneth J. Zucker, Transvestic Fetishism in the General Population, *Journal of Sex & Marital Therapy*, 31:87–95, 2005.

<https://www.researchgate.net/publication/7879474>

Christian C. Joyal & Julie Carpentier (2016): The Prevalence of Paraphilic Interests and Behaviors in the General Population: A Provincial Survey, *The Journal of Sex*

Research, DOI: 10.1080/00224499.2016.1139034.

<http://dx.doi.org/10.1080/00224499.2016.1139034>

Domestic violence shelters and rape shelters

The consultation document says that the Scottish Government has looked at British Columbia as a model for self-declaration. Canada is dangerous territory to look for guidance on this issue. Any situation where it is easy for gender recognition and self-declaration to take place results in increasing numbers of men using female names, regardless of whether or not these men have been diagnosed with gender dysphoria, for sexually predatory purposes. The case of Christopher Hambrook in Canada sparked off concerns about this. Hambrook claimed to be a transgendered woman and attacked women at two different women's shelters in Toronto. In 2014 he was jailed indefinitely as he posed such a serious danger as a sexual criminal.

<http://torontosun.com/2014/02/26/predator-who-claimed-to-be-transgender-declared-dangerous-offender/wcm/fc2c70f0-b1a1-41e2-85db-bec9d0012ce5>

This came soon after the province of Ontario passed Bill 33, a bill effectively introducing gender self-declaration by prohibiting discrimination on grounds of gender identity and gender expression.

http://www.ontla.on.ca/bills/bills-files/40_Parliament/Session1/b033rep.pdf

Serious threat to women's dignity and safety

Self-declaration poses a serious problem for women's and girls' right to single-sex facilities, services and premises. We are aware that some UK-wide women's organisations working in Scotland have said officially that they welcome to legislation but in this respect it should be obvious that they have no option to dissent as they receive government money. We say this due to having attended the meeting convened by David TC Davies, MP for Monmouth, in the House of Commons in October 2017 where members of newly founded women's organisations complained that existing organisations devoted to women's shelters, etc. have been gagged legally and prevented from criticising the conflation of sex with transgender identity, precisely because they receive government funding.

With reference to changing sex-specific facilities, services and premises to being gender-neutral, something that tends to go hand in hand with laws allowing self-declaration of gender, we wish to draw attention to independent research conducted by a Christian pastor, Rev. Paul Dirks and associates from Canada showing that the introduction of gender-neutral facilities across the United Kingdom, Canada and the USA has resulted in an increased risk of sexual assault including voyeurism.

<http://womanmeanssomething.com/violencedatabase/>

Here is Paul Dirks' testimony before the Canadian Senate concerning the draft of Bill C-16, the bill now passed outlawing discrimination on grounds of gender identity and gender expression by adding those to the Canadian Human Rights Act.

<http://womanmeanssomething.com/wp-content/uploads/2017/05/Gender-Legislation-and-Harm-2.pdf>

Neither Paul Dirks nor ourselves nor any other researchers we have come across know of a more comprehensive database of sexual crimes in gender-neutral facilities where women have been victims of men.

Of course if self-declaration becomes law, the current trend whereby the police do not record the transgender status of those arrested if they consider themselves to be transgendered, will only get worse. The quality of crime statistics across the UK has already declined due to this problem.

Gender fraud cases

There have been at least five court cases in the UK, including one in Scotland, involving female-to-male transgender offenders who disguised themselves as men in order to prey sexually on teenage girls. Some of these girls were under the age of consent.

(R v Gemma Barker [2012], R v Chris Wilson [2013], R v Justine McNally [2013], R v Gayle Newland [2015], R v Kyran Lee (Mason) [2015])

Introducing self-declaration of gender will further complicate the criminal law on sexual behaviour. It will introduce into the law the absurd notion that a 'man' can

have biological female sexual characteristics (i.e. not given via gender reassignment surgery) and a 'woman' can have biological male sexual characteristics (likewise not given via gender reassignment surgery). This will only exacerbate the whole sphere of interpersonal relationships within civil society and third sector organisations providing counselling, therapy and relationships advice, as well as institutions involved in training mental health professionals, social workers, lawyers and educators. It will have the long-term effect of reducing levels of interpersonal trust especially among young people who are being forced to grow up with this confusion being spread throughout society.

The government should beware violent activists

It is important to take note of the violent transgender activism that has been incited from and going on in Scotland. For example the Edinburgh chapter of Action for Trans Health was behind the attack on women trying to meet in London for a discussion of the GRA reforms

<https://www.thetimes.co.uk/article/trans-group-ath-condones-punching-feminists-n6mz06pj3>

Scotland Yard refused to indicate the gender of one of the alleged perpetrators whom they were trying to track down, in case they got it wrong. This sort of situation, where the police are unwilling to state a person's gender may be related to fear of being sued by activists. Self-declaration in law will only worsen the situation.

<http://www.dailymail.co.uk/news/article-5019051/Police-appeal-transgender-activists-beat-feminist.html>

The claim made in Paragraph 3.32 that it is possible to make a 'false or frivolous statement' of self-declaration of gender is curious. The real problem is that it is impossible to verify whether or not a statement is true or false, as according to the Yogyakarta Principles only the individual can know (Yogyakarta Principles 2006, Introduction, p. 6, fn. 2).

http://yogyakartaprinciples.org/wp-content/uploads/2016/08/principles_en.pdf

Self-declaration will make telling the truth a hate crime

Introducing self-declaration of gender will mean that anybody who contradicts someone who is obviously male claiming to be female or vice versa could be reported by him or her for hate speech. This is very obvious from the observable relentless avalanche of verbal abuse dished out on social media by transgender activists towards anybody who challenges them. Entire blogs and accounts have been created to record this problem. They are the subject of frequent attempts at censorship by social media companies, themselves targeted by activists.

In relation to this we note that section 2 (4) of the Offences (Aggravation by Prejudice) (Scotland) Act 2009 only requires evidence from a single source as proof and that 'transgender identity' covers transvestism as well as transsexualism and 'any other gender identity'. The problem here is that whilst the law itself focuses on offences aggravated by prejudice (ill-will or malice as defined by the defendant), the

social reality fostered by public bodies that back up this law and the normalisation of transgender identity tend to view all critical perspectives as 'prejudice' and therefore as 'hate speech'.

Scotland needs doctors and has said it will welcome foreign doctors. If Scotland introduces self-declaration medical staff will not be allowed to tell the truth about patients' sex and will be liable to reporting and prosecution for hate speech. This would lower the credibility and attractiveness of the profession. The same would be true of professions such as nursing, social work, teaching and probation. This is bound to affect recruitment as well as morale in the workplace.

As recent events in England have shown, self-declaration would make a mockery of any attempts to appoint women to posts where women are required or deemed more appropriate.

Question 2. Should applicants to the proposed gender recognition system in Scotland have to provide a statutory declaration confirming they know what they are doing and intend to live in their acquired gender until death?

We are abstaining from this question because we do not agree with the proposed gender recognition system, as we explained in our answer to question 1. We agree that a decision to acquire a new gender is a serious decision. However, there are many people who experience regret from changing gender away from their biological gender, and many of these have de-transitioned back to their biological gender. We would not wish to prevent people from de-transitioning back to their biological gender.

Question 3. Should there be a limit on the number of times a person can get legal gender recognition?

There should be no possibility of gaining recognition of a gender other than one's sex at birth. That said, the Scottish Government does not have the power to repeal the Gender Recognition Act. Thus given the Scottish Government's limited powers in this area, there should be a limit of two times a person can get legal gender recognition, in order to accommodate people who wish to change back. A person who has been rejected the first time for gender recognition by the Gender Recognition Panel should not be allowed to apply again.

Question 4. If the Scottish Government takes forward legislation to adopt a self-declaration system for legal gender recognition, should this arrangement be open:

(A) only to people whose birth or adoption was registered in Scotland, or who are resident in Scotland? or (B) to everyone? or (C) Don't know

Avoid creating cross-border problems

Only people from Scotland should be allowed. In light of our reasoning above we wish to stress that allowing a more liberal system in Scotland than in the rest of the UK will create serious social problems in Scotland, such as families who are abusing their children by deliberately bringing them up as members of the opposite sex moving to Scotland to take advantage of the situation. In addition it is reasonable to say that offenders from England, Wales and Northern Ireland who wish to move around undetected for whatever reason will move to Scotland to take advantage. This will put women, children and vulnerable adults at risk.

Question 5. (This question relates to the reduction of the minimum age of applicants for legal gender recognition to those aged 16 and over from the current age of 18. Question 6 will ask your views on the options for people younger than 16).

The Scottish Government proposes that people aged 16 and 17 should be able to apply and obtain legal recognition of their acquired gender. Do you agree or disagree?

The age of gender recognition should not be lowered. Adolescents' brains are still developing. Late adolescence is a time when many are still vulnerable to the power of suggestion and to peer pressure. Neurologically, the adolescent brain is immature and lacks the adult capacity for risk assessment prior to the early mid-20's.

Michelle A. Cretella, *Gender Dysphoria in Children and Suppression of Debate*, 21 J. of Am. Physicians & Surgeons 50, 53. (2016).

Social and legal problems will increase for schools and colleges and families, following the current trend for some pupils and parents to sue by interpreting the law such that gender reassignment is permitted for minors.

Question 6. Which of the identified options for children under 16 do you most favour? (Please select only one answer).

We choose option 1: nothing for children under 16

The Scottish Government is to be rebuked for even proposing gender recognition for children under 16. We also object to the fact that Annex M says that the Scottish government intends to have the new arrangements put into place by 2020. **This assumes that the Scottish government will ignore or override objections to**

gender recognition for children under 16. This is breaking basic principles of a consultation, as well as undermining democracy and the rule of law given that the law has not actually been changed and would require a vote in Parliament.

Recently published findings suggest that approximately 98 percent of gender-confused boys, and 88 percent of gender-confused girls, naturally resolve the disjunction between their subjective feeling of gender identity and the reality of the biological sex.

American College of Paediatricians, *Gender Ideology Harms Children*, Aug. 17, 2016, available at <https://www.acped.org/the-college-speaks/position-statements/gender-ideology-harms-children>.

While some researchers have reported that they have identified some factors associated with the persistence of gender dysphoria into adulthood, there really is no evidence that any clinician can identify perhaps the one-in-twenty children for whom gender dysphoria will persist with anything approaching certainty.

See, e.g., Thomas D. Steensma *et al.*, *Factors Associated with Desistence and Persistence of Childhood Gender Dysphoria: A Quotative Follow-Up Study*, 52 J. of the Am. Acad. of Child & Adolescent Psychiatry 582-90 (2013).

Furthermore, according to a 2013 article in *The Times*, the United Kingdom saw a 50% increase in the number of children referred to gender dysphoria clinics from 2011 to 2012, and a nearly 50% increase in referrals among adults from 2010 to 2012.

Chris Smyth, "Better Help Urged for Children with Signs of Gender Dysphoria," *The Times* (London), October 25, 2013, <http://www.thetimes.co.uk/tto/health/news/article3903783.ece>.

It is also reported from the same study that in 2012, 208 children were referred, whereas only 64 were so referred in 2008. And staggeringly, in 2013 there were 18, 000 people treatment in comparison to 4000 15 years ago. No doubt these numbers have grown significantly since this study was done. Given the staggeringly high rates of self-harm and suicide among the transgender community, efforts should be made to find the underlying cause for this increase rather than liberalising the law.

In light of this we have questions as to what departments within the Scottish Government, in particular those dealing with children, education, social work and young offenders' institutions are doing in the field of policy development. It would be unacceptable for them to be proceeding with writing policy as if self-declaration were a *fait accompli*.

Transgender activists are deliberately recruiting minors online

It is very obvious that transgender activists, including people who work for gender identity clinics, are actively recruiting minors online via social media. This is grooming. The Scottish Government should not be colluding with such behaviour by lowering the age of gender recognition. It will be complicit in grooming and force NHS Scotland to fail in its duty of care to these very vulnerable and suggestible children and young people.

<https://transgenderreality.com/about/>

Do not bring in surveillance behind the backs of parents

We also note with interest the judgment handed down in 2016 by the Supreme Court of the United Kingdom in [2016] UKSC 51 against the Scottish Government regarding the Named Person Scheme breaching the Human Rights Act 1998.

<https://www.supremecourt.uk/cases/docs/uksc-2015-0216-judgment.pdf>

We say this because the Scheme aimed to permit data sharing about children without their parents' knowledge. Across the western world the push for the normalisation of transgender identity among children and teenagers has resulted in the erosion of parental rights and responsibility, specifically the right to know what their children are being taught about gender identity in school, and the right to know if their children have told a school staff member that they identify with a particular gender identity. If the Scottish government were to allow self-declaration for under-18s and under-16s this would be a way of sneaking in elements of the surveillance regime proposed by the original Named Person Scheme through the back door.

Question 7. Should it be possible to apply for and obtain legal gender recognition without any need for spousal consent?

Keep the spousal veto to protect the rights of non-transgendered spouses and religious freedom

It is unacceptable that the Scottish Government is even asking whether the non-transgender spouse should not be required to give consent to their spouse's gender recognition. The spousal veto is there to protect consent in marriage law. Most marriages where one spouse decides to undergo gender reassignment and bid for gender recognition are heterosexual marriages where the non-transgendered spouse is a biological woman and the transgendered spouse is a biological man. Most of these non-transgendered did not enter into marriage wanting it to change into the semblance of a same-sex relationship. Removing the spousal veto makes meaningless the non-transgendered spouse's consent to being married in the first place. This would be a violation of their right to family life under Article 8 of the European Convention of Human Rights. Also as sexual orientation is a protected characteristic, and as sexual behaviour is basic to marriage, it is possible that the rights of the non-transgendered spouse under Sections 11 and 12 of the Equality Act 2010 would be breached.

The proposal to get rid of the spousal veto violates marriage completely and voids marriage law of any notion of consent, commitment, stability and trustworthiness. In addition it would create serious havoc in divorce cases as the non-transgendered spouse could be deemed 'transphobic' and 'homophobic' for not indicating consent to their spouse's gender recognition.

If the Scottish Government were to remove the spousal veto this would go against the freedom of religion as enshrined in the Gender Recognition (Disclosure of Information) (Scotland) Order 2005, section 4. Churches and other bodies would not be able to call these marriages invalid or null, and these marriages would be automatically turned into same-sex marriages, even in denominations which have explicitly refused to perform same-sex weddings. This would go against provisions of religious freedom in the law on same-sex marriage. Congregations and members of particular religions would consider themselves to have been deceived and manipulated into accepting same-sex marriages.

Question 8. Civil partnership is only available to same sex couples. This means that civil partners cannot remain in their civil partnership if one of them wishes to obtain a full Gender Recognition Certificate.

Should they instead be allowed to remain in their civil partnership? This would mean that a woman and a man would be in the civil partnership.

We are abstaining from this question because we cannot in good conscience accept civil partnerships. In the first instance this is because they legitimate same-sex relationships. In addition we cannot in good conscience agree with the proposal that people who have obtained gender recognition should be allowed to stay in civil partnerships as the question indicates. This is because the question claims that there would now be a woman and a man in the civil partnership. This is not true. There would either be a man and another man who says he is a woman, or a woman and another woman who says she is a man. We would be colluding with lying and deceit if we were to agree to this.

Question 9. Should legal gender recognition stop being a ground of divorce or dissolution?

No. Gender recognition should still be a ground for divorce. Families have been ripped apart by this for years. We note that the Scottish Government keeps annual statistics on the number of divorces and dissolutions of marriage granted where gender recognition is a ground for this. We wish to see this recording of data continue.

Most heterosexual married couples where one spouse wishes to pursue gender reassignment and recognition are couples where it is the husband who is pursuing this and it is wives who tend to petition for divorce. Wives who do not want their husbands to pursue gender recognition (understandably as these wives did not intend to enter into same-sex marriages) will lose their grounds for divorce and also will be cast as the troublemakers, as 'bigots', 'transphobes', etc. and are more likely to lose custody of their children as a result. We note how one prominent clinician in

the field, Richard Green, has attacked wives of male-to-female transsexuals as supposedly suffering from 'Parental Alienation Syndrome', a term used in the family courts to argue that biological mothers are guilty of alienating children from their fathers and as such should be denied custody of the children after divorce. Without denying that this can and does happen, we are extremely suspicious of the transposition of this terminology to divorce cases involving parental transsexualism. Parents suffering from gender dysphoria are too unstable mentally to be able to cope with sole custody of a child after divorce, and this situation would risk causing confusion for children.

Richard Green, 'Parental alienation syndrome and the transsexual parent', *International Journal of Transgenderism*, 2006.

The mental suffering of wives and children of men who decide to live as transgendered

The Women of the Beaumont Society for many years admitted on their website that wives and female partners of such men were often deeply shocked and troubled upon discovering their husbands' tendencies, with many ending up needing mental healthcare. In 1999 they estimated that 'possibly up to 100 women in the UK alone each year are presented to psychiatric wards suffering from the shock of discovering their husband or partner's transvestism or transsexualism.

<https://web.archive.org/web/20130312101424/http://www.gender.org.uk:80/wobsmatters/faq.html>

In his study of patients at Charing Cross between 1978 and 1981 referenced above, Bryan Tully reported that 32% of males who achieved surgery had been married, whereas 50% who did not had been married. Overall around 46% of male patients referred were ever married. Our estimate for the total number of referrals to Charing Cross between 1970 and 1999 is as follows: 1970s (1500, of which roughly 80% were male), 1980s (2000, again 80% or so male), 1990s (3000, again 80% or so male). If we take Tully's estimate (the only one available indicating marital status for this period) that 46% of male referrals were ever-married, this comes to 2392 over 30 years. This comes to an average of 79 ever-married men per year. On this basis, we estimate that it is possible that **most wives** experienced deep shock with many requiring mental healthcare.

The suffering of children of parents who make a decision to live as transsexuals has never truly been acknowledged in the past half century since Charing Cross Gender Identity Clinic was opened in 1966. There have been no reliable, statistically rigorous studies of the effect of transsexualism on spouses, children and other relatives conducted by clinicians, yet we are aware anecdotally of cases over the years. Also anecdotal evidence seeps out from time to time to the press, often because individual male-to-female transsexuals drag their family quarrels into the press complaining that their children won't speak to them. These children obviously suffer because they need both biological parents, but one does not want to be a biological father (or mother in some cases) and would prefer to deny this reality.

For the Scottish Government to even ask whether the spousal veto should be abolished is effectively to ask whether children of those marriages should be deliberately deprived of their father actually living as a man or their mother living as a woman. It is callous in the extreme.

Relatives of people who have chosen to abandon normal family life in favour of living as transgendered have nowhere to turn to for help. There are two main reasons for this. First, transgender charities and campaign groups have long tried to persuade them to accept transsexualism as normal. Second, because of the current climate whereby being critical of transgender identification is deemed 'transphobic', including in the mental health profession, healthcare professionals who should be skilled in helping people who are devastated and traumatised by such problems are not free to make space for honest and truthful conversations with clients and patients. People hurt and harmed by transsexualism are deeply aware of this.

As an analogy consider the recent story reported by the Sunday Times on 14 January 2018 of a woman sent to a secure single-sex psychiatric ward in a hospital in England only to find a male-to-female transsexual patient was moved in a few days later. This woman suffered from paranoid delusions that men's rights activists were targeting her. The last thing she needed was the nurse dealing with her expressing 'surprise' at her 'views of transgender people', which the patient deemed to be an accusation of transphobia.

<https://www.thetimes.co.uk/article/terrified-patient-treated-like-transphobic-bigot-bsfsgrv2p>

Now imagine if this woman had been in a psychiatric ward because of suffering a nervous breakdown because her husband had decided to live as a 'woman'. Implying that she was 'transphobic', or making her supposed views on transgender issues a criterion of whether she was deemed a 'good' patient, would be totally unacceptable and would likely prevent her from trusting hospital staff and be a fundamental psychological barrier to her recovery.

Question 10. Are any changes to section 22 (prohibition on disclosure of information) necessary?

Section 22 of the Gender Recognition Act (2004) should be repealed altogether. However only the UK Parliament can do this. It was debated in Parliament in 2004, with the MP who proposed keeping it out arguing rightly that it was unnecessary. Section 22 has never been used in court, which suggests nobody wants to use it. It is unworkable given that transgender people nowadays very often identify themselves publicly as transgender, via social media or by taking their personal stories to the press to campaign for transgender rights. The other reason is that courts have been sentencing people for 'gender fraud'.

Section 22 appears to have given many in the police a symbolic reason for not recording the true sex of transgender offenders arrested and charged since the Act

came into force on 12 April 2005. Freedom of Information Request responses known to us show that only a handful of police forces appear to record the sex and transgender status of offenders. Thus we have no official figures with which to measure transgender crime. This is a problem given that Bryan Tully's PhD on 204 transsexual patients at Charing Cross, published in 1992, found that 54% of male patients and one third of female patients had a criminal history (Bryan Tully, *Accounting for Transsexualism and Transhomosexuality*. London: Whiting and Birch, 1992, p. 267).

Scottish police should record transgender status in crime data

The Scottish government should require all Scottish police forces to record both the sex at birth and the transgender status of everyone that is arrested, charged and convicted in Scotland. This would enable criminological understanding of crimes by transgender offenders of the same standard as criminological understanding of crimes by offenders who are recorded as male or female.

Question 11. Should a person who has been recognised in their acquired gender under the law of another jurisdiction be automatically recognised in Scotland without having to make an application?

No. People could start coming to Scotland for criminal purposes, to escape detection or prosecution. Each case would need to be vetted.

Question 12. Should Scotland take action to recognise non-binary people?

No it should not. 'Non-binary' is not really an alternative to 'transgender', it is just a subcultural label. Non-binary people typically still insist on using opposite-sex pronouns or 'they'. Introducing a 'non-binary' category in law would only deepen the problems caused by introducing transgender identity. It would continue the problem of males 'identifying' as people who use female pronouns and demanding access to women-only services, facilities and premises.

Question 13. If you answered Yes to Question 12, which of the identified options to give recognition to non-binary people do you support? (You can select more than one option).

As we answered 'No' to Question 12 there is no need to answer Question 13.

Question 14. At paragraph 7.26. and in Annex J we have identified the consequential legal impacts if non-binary people could obtain legal gender recognition using the proposed self-declaration system.

Are you aware of other impacts we have not identified?

The first impact to consider is on the meaning of the term 'sex'. Annex J wrongly assumes that there could be more than two sexes. There can't be as sex is biological, rooted in genetics. There is no such thing as a 'third sex'.

Question 15

Comments or evidence are invited for the following:

Scotland has no powers to undo any damage caused by changing the law

We note that although some powers over equality are devolved to Scotland, the Scottish government has no power to modify the provisions of the Equality Act 2010, only to add to them. As such it would be powerless to undo any damage done by its proposals to liberalise the Gender Recognition Act. The Scottish government should not jump ahead with changing the law here, given that women's groups told the meeting convened by David TC Davies MP in the House of Commons on 31 October 2017 that the Equality Act 2010 needs to be amended, so that service users would have a say on the future of exemptions for single-sex services, facilities and premises.

The partial Equality Impact Assessment

[http://dx.doi.org/10.1016/S2215-0366\(16\)30165-1](http://dx.doi.org/10.1016/S2215-0366(16)30165-1)

<https://biblio.ugent.be/publication/7081076>

People with learning disabilities

It is very telling that the EIA admits that people with learning disabilities may not understand what gender self-declaration truly involves and might be more likely to regret this and change back. Criticism of Gender Identity Clinics putting such people through gender reassignment goes back decades, to Bryan Tully's PhD on 204 transsexual patients at Charing Cross Hospital Gender Identity Clinic in 1978-1981.

[Bryan Tully, *Accounting for Transsexualism and Transhomosexuality*. London: Whiting and Birch, 1992.]

It is high time that people diagnosed with learning difficulties were barred altogether from undergoing gender reassignment.

Worsening relations between parents and children

It is also very telling that the EIA admits that extending gender recognition to under-16s might increase the clash between parents and children. However the fact is that extending it to 16-17 year olds would also increase this clash.

Religion

There is no evidence for the claim made in the EIA that only people from 'some religions' believe there to be only two genders (understood as sexes). No evidence has been provided to support this claim. The fact is that the vast majority of religions represented in Scotland believe this. The psychological concept of 'gender' is a secular one invented by John Money in the 1950s.

The religions listed in the 2011 Scottish Census are the Church of Scotland, Roman Catholic Church, Other Christian, Buddhist, Hindu, Jewish, Sikh, Muslim.

<http://www.gov.scot/Topics/People/Equality/Equalities/DataGrid/Religion/RelPopMig>

In 2017 NHS England conducted a data collection exercise across Gender Identity Clinics in England and found that most religions (Christianity, Hindus, Jews, Sikhs and Muslims) were underrepresented by comparison with 2011 Census data for England, with the exception of Buddhists and Pagans who were over-represented (see p. 29 of the consultation guide below). This is pretty good evidence that people with a religious affiliation are less likely to want to be referred to a Gender Identity Clinic. The main motivation for being referred is to obtain a diagnosis of Gender Dysphoria, in order to be recognised as transgendered.

https://www.engage.england.nhs.uk/survey/gender-identity-services-for-adults/user_uploads/gender-identity-consultation-guide-1.pdf

For Stage 2, the Scottish Government should simply reveal how many people in Scotland have received a) a diagnosis of gender dysphoria since 2005, b) Gender Recognition Certificates.

Estimate the suicide rate and regret rate accurately

The reporting of statistics from the Trans Mental Health Survey of 2012 is misleading. It is claimed that 48% attempted suicide. In reality this is of roughly half the whole sample of 889 respondents. This means that the attempted suicide rate goes down to a quarter, recalling that the sample was taken from across the UK, something the report does not specify. This is more in line with international evidence.

Again, the evidence for regret or otherwise of gender reassignment from the Trans Mental Health Survey needs to be treated with caution. Whilst 53% had no regrets, a higher percentage of this survey (9%) than other surveys found evidence of considerable regret, with 34% reporting minimal regret. However these are percentages out of 523 people out of the 889 total. The 53% of 523 people comes to only 277 people, which is 31% - less than one third of the entire sample – saying they had no regrets. This is a very low percentage, far lower than what has historically been claimed in the numerous scientific follow-up studies, which often have far smaller samples than this.

Everyone who gives birth is female

We are glad to see that the Register of Births in Scotland records all women who have given birth as ‘mothers’ and that there appear to be no plans to record births by ‘trans men’. We wish to remind the Scottish Government that a recent online poll of several thousand people found the vast majority did not want the UK government to stop using the term ‘pregnant women’ in relation to UN human rights language. This was in response to the claim that this correct terminology would ‘inadvertently discriminate against transgender people’.

It is very significant that the table for Stage 3 admits that the policy proposal of gender self-declaration was not designed to eliminate unlawful discrimination. Transgender people are already protected by law, indeed arguably they are privileged by it above others thanks to Section 22 of the Gender Recognition Act.

It is very significant that in the table for Stage 3 admits that the policy proposal of gender self-declaration is not designed to promote good relations between any groups with protected characteristics. Indeed it will only exacerbate them.

Dropping the spousal veto and gender reassignment as ground for divorce would constitute discrimination against heterosexual women or men married to men or women who ‘come out’ as transgender, on grounds of sex and (heterosexual) orientation.

How self-declaration will impact on people’s beliefs

The consultation document wrongly claims that the policy changes will not impact on a person’s belief. In fact they will. The Christian view is that the soul or mind has no ‘gender’ as it is in and of itself not bodily. The claim that a person’s personal sense of gender identity is ‘mismatched’ with their biological sex is a statement of belief that transgender people often make, but which others disbelieve. Thus under the protected characteristic of Religion or Belief under the Equality Act 2010, the belief of most of the British population (as shown by the ILGA 2016 global survey on LGBTI issues) that transgender people are not ‘born that way’ has to be treated as a protected characteristic, both as a belief and as lack of belief in the claim itself.

<http://ilga.org/personal-political-attitudes-lgbti-survey>

A person’s belief that they are of the opposite gender will clash even more with the evident fact of belonging to one biological sex in the advent of self-declaration absent medical checks. This is because, for example, males declaring themselves to be ‘female’ will not need to have had any physiological gender reassignment treatment to appear remotely like actual women. There already exist examples of such people. A number of the males are dangerous sex offenders, as the Scottish Prison System is all too well aware. The Scottish Government should have taken note of this social trend. Given all this it is really completely unacceptable that the consultation document claims that because the Scottish Government is committed to various goals about women and gender, that there will be no negative impacts from self-declaration on women. This is basically saying that because the Government

says it wants to pursue certain policies, there will be no unforeseen or foreseen negative impacts.

It is an understatement to admit that the policy is not designed to promote good relations between men and women!

The partial Business and Regulatory Impact Assessment

Lack of concern for effect on business customers

It is unacceptable that this BRIA does not list business customers as people who would be affected by the changes to the Gender Recognition Act in Scotland. This is such an obvious consideration to take into account.

Lack of transparency in the BRIA

The Scottish government needs to name the 'technology company within the global payments industry' and the pension association with whom it consulted over this BRIA.

Children's Rights

It is telling that the Scottish Government admits that the review of the GRA will affect the peers of children experiencing problems with gender identity. We will list here the likely negative effects on children that will issue from permitting self-declaration of gender.

Social contagion

What needs to be said here is that other children will be negatively affected by social contagion and the power of suggestion to wonder whether they too are 'really' (i.e. secretly) transgender. There is plenty of talk of this on social media.

Bullying

If we look at the Annual Anti-Bullying Survey for 2015, 2016 and 2017 conducted by Ditch The Label, we find that transgender secondary school students are the most likely to admit to bullying others. For each of the three years, as many as 43% of transgender students admitted to having ever physically attacked somebody, whereas female students scored 14% maximum, and male students 33% maximum. Answering the question 'Have you ever said something nasty to somebody online?', transgender students who admitted that they had numbered 48% in 2017. Female students numbered 25% respectively, and male students 38%.

<https://www.ditchthelabel.org/wp-content/uploads/2016/07/abs2015.pdf>

<https://www.ditchthelabel.org/wp-content/uploads/2016/04/Annual-Bullying-Survey-2016-Digital.pdf>

<https://www.ditchthelabel.org/wp-content/uploads/2017/07/The-Annual-Bullying-Survey-2017-1.pdf>

Lowering the age of gender recognition would allow more girls under 18 and 16 to take testosterone having been prescribed testosterone once they have had puberty

blockers administered. This would inevitably lead to more aggression and crime by people born female. **As most children and adolescents currently referred to GIDS are female, this means that we can expect these problems to increase very soon.**

We anticipate that children who tell the truth by referring to a classmate by their sex will be increasingly at risk of punishment for 'misgendering' as well as bullying from other children who perceive transgenderism as fashionable.

Grooming of children

Removing age barriers would increase the incidence of grooming of children into considering themselves transgendered. There are already two cases from the family courts in England and Wales where boys were removed from their mothers' custody for this reason and given to other relatives.

G (A Child) [2015] EWFC B209 (17 December 2015)

[www.bailii.org/cgi-bin/format.cgi?doc=/ew/cases/EWFC/OJ/2015/B209.html&query=\(J\)+AND+\(child\)+AND+\(transgender\)](http://www.bailii.org/cgi-bin/format.cgi?doc=/ew/cases/EWFC/OJ/2015/B209.html&query=(J)+AND+(child)+AND+(transgender))

J (A Minor), Re [2016] EWHC 2430 (Fam) (21 October 2016)

[http://www.bailii.org/cgi-bin/format.cgi?doc=/ew/cases/EWHC/Fam/2016/2430.html&query=\(J\)+AND+\(child\)+AND+\(transgender\)](http://www.bailii.org/cgi-bin/format.cgi?doc=/ew/cases/EWHC/Fam/2016/2430.html&query=(J)+AND+(child)+AND+(transgender))

Increased risk of 'gender fraud'

In addition, there are at least five published cases from the criminal courts in England and Scotland of FTM young adults targeting teenage girls sexually and committing 'gender fraud'. We have already listed these cases above. Girls would be at even greater risk of such targeting and grooming should the age for gender recognition come down.

Sick children in hospital at increased risk

The impact of the CRWIA on children in hospitals is seriously problematic. Children in hospital are very vulnerable. The last thing they need is anybody planting the suggestion in their heads that they are transgendered, something we know is already being done by some irresponsible mental health professionals working with children and adolescents and by activists targeting young people online.

Families at risk of the power of suggestion

Decades of clinical evidence shows that vulnerable children from fractured families and the care system are much more likely to be referred to Gender Identity Clinics.

A study of the first 124 children referred to the Child and Adolescent GIDS in London between 1989 and 2001 found that 26.8% of the children had spent time in care, 48% of the children had spent time living with a single parent, and 41.7% of the children had experienced loss of one or both parents through death or separation.

'Children and Adolescents Referred to a Specialist Gender Identity Development Service: Clinical Features and Demographic Characteristics', *International Journal of Transgenderism* 6(1), 2002

This is clearly an atypical sample of children compared to the general population.

On Census Day in 2001 there were 1758 children under 18 in local authority children's homes in England. There were 1185 children under 18 in other children's homes in England. This comes to a total of 2943 children out of 890, 685 children in England under 18. (All figures for the Census come from the website <http://www.nomisweb.co.uk>)

Only 0.33% children in England were in a care home on Census Day in 2001. By contrast, 26.8% of children referred to GIDS between 1989 and March 2001 had been in the care system at some point. Thus children from the care system were 81 times more likely to have been referred. Of course this isn't a perfect comparison, as the GIDS figures are cumulative, whilst the Census figures are a snapshot of the total number of children on one day.

Likewise nearly half (48%) of children referred to GIDS by 2001 had lived with a single parent. On Census Day there were 1, 311, 974 lone parent households with dependent children in England and Wales. There were just over 7 million households with dependent children. This means that children from single parent families were roughly three times more likely to be referred to GIDS. Most single parent families then were headed by mothers.

It should come as no surprise that half of children referred to GIDS had lived only with their mother. Psychiatric research conducted in the UK as far back as 1965 shows that male-to-female transsexuals were much more likely than the general population to have the mother as the dominant parent, and to be closer to their mothers.

J. R. B. Ball, *Transsexualism: A descriptive and comparative study to attempt to establish possible aetiological factors*. MD thesis, University of Newcastle-Upon-Tyne, 1965.

Given that gender dysphoria can develop because of the power of suggestion, with a child influenced by an adult, and given that children from fractured families often have fewer psychological defences and coping mechanisms, they are much more vulnerable to suggestion from irresponsible social workers or health visitors who may say things to them such as 'you might be transgendered'.

Interpreting the UN Convention on the Rights of the Child

All UNCRC rights are underpinned by the four general principles: non-discrimination; the best interests of the child; the right to life; survival and development; and the right to have children's views given due weight.

We note that the consultation documents indicates that the Scottish Government is using a radical interpretation of the UNCRC as a form of 'soft law' with regard to transgender rights. As such we wish to make some major corrections and offer an alternative way forward based on a plain reading of the original text of the UNCRC.

‘Gender identity’ should not replace sex

We are very critical of the Scottish Government’s interpretation of the UN Convention of the Rights of the Child and the emphasis on ‘gender identity’ as an aspect of identity. This is a reference to the chapter ‘Preservation of Identity’ commenting on Article 8, on page 115 in the third edition of the Handbook, published in 2007.

‘The child’s physical appearance, abilities, gender identity and sexual orientation’.

Throughout the Implementation Handbook very little mention is made of a child’s sex. It is clear that the Handbook has effectively replaced ‘sex’ with ‘gender identity’ despite paying lip-service to the former. However Article 2 of the text of the Convention itself lists sex and not ‘gender identity’ as a characteristic of a child that should be respected and protected. Moreover UK law (Equality Act 2010, Human Rights Act 1998) lists sex, not gender identity, as a characteristic. As such the Scottish Government should not have recourse to this Handbook, which is not a legally binding document and which has clearly smuggled in the concept of ‘gender identity’ in order to erase the reality of sex.

On Article 3(1) the CRIWA is wrong. **The Scottish Government has no legal competence to allow anybody, children or otherwise, to change their legal sex.** The Gender Recognition Act was called the **Gender** Recognition Act because it deals with change of gender, i.e. imagined or desired sex. **Sex but not gender identity is a protected characteristic under the Equality Act 2010, and the Scottish Government has no power to amend that Act.**

The Scottish Government claims that Article 5 would support their proposals to allow gender recognition for children. Yet the Article only refers to ‘rights recognised under the present Convention’, and the right to gender reassignment is not recognised in the text of the UNCRC.

Twisting ‘the right to life’ to mean tacit capitulation to suicide threats as emotional blackmail

We are unimpressed by the Scottish Government’s claim that some of its options could affect the development of transgender children in relation to Article 6 of the Convention. This is because Article 6 defends the right to life and stipulates that state parties should ensure to the maximum extent the survival and development of the child. Really what this is is that the Scottish Government has taken on board the false claims of the transgender lobbyists that if a child is not allowed to transition, that child will commit suicide. Thus the tacit argument is that not allowing gender recognition for children under 18 or under 16 is to cause the suicide of children who consider themselves at any point in time transgendered.

The Scottish Government has not explained how Article 7(1) may be relevant to its proposals to allow gender recognition for children. In reality Article 7(1) plainly contradicts such a policy aim as registering the child’s sex at birth is acknowledged as a right already existing elsewhere by the Implementation Handbook. We also note that Article 7(1) upholds a child’s right to be known and cared for by his or her parents, which contradicts the tendency among some social work professionals and

some transgender activists who insinuate that children should be taken away from their parents if their parents do not want them to undergo any form of gender reassignment. We ourselves have legal experience in this area.

The need to uphold public health and morals

It is particularly inappropriate for the Scottish Government to interpret Article 13 as giving children the 'right to receive information about gender identity', as the spread of transgender ideology among children goes against the requirement in Article 13 (2) to put considerations of public health and morals and public order first before any rights.

Attack on parental rights and freedom of religion and belief

The Scottish Government's brief comment on Article 14 suggests that it sees parents' beliefs concerning whether or not a child should be allowed gender recognition as a nuisance and an obstacle to its own ends. However these parents' objections accord fully with the original text of the Convention as well as with objective considerations of public health and morals.

Withholding information on children from their parents

In its statement on Article 16, the Scottish Government is really proposing here that information about children should be kept secret from their parents. This contradicts the rights of parents, a right upheld in Article 3(2) of the UNCRC. This was part of the problem with the Named Person Scheme, aspects of which concerning data sharing we note have been declared illegal by the Supreme Court of the United Kingdom in 2016.

We consider particularly relevant the opinion of Aidan O'Neill QC on the Named Person Scheme that it

"appears to be predicated on the idea that the proper primary relationship that children will have for their wellbeing and development, nurturing and education is with the State rather than within their families and with their parents".

Disseminate information to help children live as members of their sex

With regard to Article 17, this refers to dissemination of information for the promotion of social, spiritual and moral well being and physical and mental health. Instead of pursuing the path of gender recognition for under-18s, the Scottish Government should use all the powers it has to disseminate information and policies aimed at helping all children grow in self-love and self-acceptance as members of their sex. Transgender propaganda aimed at normalising gender recognition for under-18s is opposed to all of these. There is solid international evidence for a correlation between the increased push for transgender normalisation and the increase in suicidality among people deemed transgendered. This contradicts the claim that greater societal acceptance will lead to better mental health.

Article 18 in reality backs up those parents who would not want their children to undergo gender reassignment or be recognised as a member of the opposite

gender. Given that the Scottish Government is following the third edition of the Implementation Handbook rather than the text of the Convention itself, and given that the Handbook effectively replaces 'sex' with 'gender identity', we foresee that should its policies become law, this would lead to censorship of any policy proposals, staff training and materials which would continue to cater for children's rights and needs according to their sex. This is because Article 18(2) targets institutions, facilities and services.

With regard to 'the right to the enjoyment of the highest attainable standard of health' (Article 24) the Scottish Government should drop these plans to allow gender recognition for children, as the available evidence shows negative effects of gender reassignment for adults. For example males who have undergone surgery and hormone treatment to live as women have a sixfold increased risk of Multiple Sclerosis. Female-to-male transgenders have an elevated risk of cardiac problems. Many of the effects of hormone treatment are still unknown.

The Scottish Government's claim that Article 26 on social security may be relevant to children with a non-binary gender identity looks suspiciously like a desire to have non-binary identity recorded on National Insurance. The problem with non-binary identity is that information about a person's sex is absent from official records, making it impossible to classify people objectively, understand behaviour or implement non-discrimination and human rights law.

School discipline is relevant to gender recognition for children given that as indicated above the Anti-Bullying Survey has found for three years running (2015-2017) that transgender children in secondary school are the most likely to admit to bullying others, including physical bullying and being nasty online.

Whilst the Scottish Government believes that Article 29 may be relevant, we wish to argue that the development of a child's personality is not helped by encouraging children to believe that they belong or should belong to the opposite sex/gender, let alone to try to manifest this belief and then effectively force other children to treat them as members of that sex/gender and thus to lie. Coercing children to lie is abusive.

Protect single-sex sports

Coercing girls to do sports with boys who say they are girls is unacceptable and will result in girls never being able to win at any competitions. This will discourage girls from making an effort in competitive sports and thus will harm them socially and in terms of their long-term health.

With regard to boys, boys may find it annoying or awkward to have a girl who claims to be a boy share the same changing rooms as them. There is a legal case in the USA started by a boy who was put in this position.

Question 16. Do you have any further comments about the review of the Gender Recognition Act 2004?

Conclusion

There are no good moral, psychological, social or legal grounds for the Scottish Government to change any part of the Gender Recognition Act (2004) to bring in self-declaration of gender in Scotland. All the evidence and all reasonable arguments which take into consideration the welfare of children, adolescents and the population in general point the other way. It is worth repeating that a recent poll conducted by Wings Over Scotland found that less than one fifth of Scottish adults and no more than a quarter of young adults living in Scotland support the proposed legal changes. **This is one of the most unpopular laws the Scottish Government has ever proposed.** The Scottish Government should drop these plans as they are very dangerous to society and will damage its credibility and trustworthiness within Scotland and beyond.