



MurrayBlackburnMackenzie

Policy Analysis Collective

3 March 2020

Neil Rennick
Director, Justice
By email

Dear Neil,

CONSULTATION ON DRAFT GENDER RECOGNITION BILL

We look forward to meeting you at 2pm on Monday 9 March, to discuss the current consultation. To make the best use of the time, we thought you might find it helpful to see in advance the points we would like to discuss with you.

These are:

- the Scottish Government's understanding of objections to its proposals.
- the Scottish Government's understanding of the operation of Schedule 3, paras 26 and 27, and Schedule 9, para 1(1), and separately Schedule 3, para 28 and Schedule 9 para 1(3), of the Equality Act 2010 for each of the following three groups, including whether it understands these to be three legally distinct groups:
 - a. people who have always had a male birth certificate but who are covered by s7 of the EA,
 - b. people who have a GRC which designates them female,
 - c. people who have always had a female birth certificate.
- the Scottish Government's definition of "trans people" as used in the consultation paper.
- what the Scottish Government understands "living in the acquired gender" will require.
- what appraisal there has been at any stage of alternatives to the status quo for acquiring a GRC, other than ones based on self-declaration with no medical criteria.
- what the Scottish Government envisages would happen if a person detransitions.
- the Scottish Government's view of Dhejne et al's (2011) Swedish cohort study findings on offending rates.

- how the Scottish Government is interpreting the absence of evidence from other nations that have introduced forms of self-declared gender recognition.
- whether the Scottish Government is consulting on the principle of the Bill or only on the detail of implementing the policy of self-declaration; and (if the latter) how it will treat responses insofar as they address the former.

Only if there is time, we would also find it useful to discuss any of the following points:

- whether the Scottish Government is aware of any work undertaken to establish the views of existing GRC holders and applicants about the process.
- what information the Scottish Government has considered relating to how well the current process is understood by potential applicants.
- whether the Scottish Government assumes a person could be found to have made a false declaration on the basis of not having lived in the acquired gender for three months prior to taking the declaration, and if so, how that might be demonstrated.
- whether there are any circumstances under which the Scottish Government assumes a person ceasing to live in the acquired gender (however defined) would be found to have made a false declaration about their lifelong intention, and if so what those would be.
- how the Scottish Government has reached conclusions on what is “international best practice” and what the Scottish Government understands that to comprise.

Yours,

Lucy Hunter Blackburn

Lisa Mackenzie

Kath Murray