



FAIR PLAY FOR WOMEN

WHAT RIGHTS DO TRANSGENDER PEOPLE ALREADY HAVE?

1) THE GENDER RECOGNITION ACT

It is already possible for a trans person to apply to have their preferred gender legally recognised and to have the opposite sex put on a new birth certificate. This requires a medical diagnosis of gender dysphoria and proof of having lived 'in role' for two years. There is no requirement for any 'sex change' surgery or medication. It is already possible for someone physically male with a penis to be seen as female in the eyes of the law.

The trans community argues this process is invasive and humiliating. They want the process de-medicalised and simply a matter of filling in a form. Fair Play For Women argues that the medical gatekeeping process is essential to stop abuse of the system and to stop literally ANY male from self-declaring himself as female to access women's rights and spaces.

2) TRANSGENDER EQUALITY LAW

Trans people are already protected from discrimination on the grounds of GENDER REASSIGNMENT. This means they are **already** treated as their preferred sex rather than their birth sex in most cases.

Someone only has to say they are proposing to undergo, undergoing or having undergone a process for the purpose of reassignment of one's sex. This definition is very broad and means simply self-declaring you might want to reassign your sex is enough to be protected. No surgery, no hormones, no seeing a doctor, not even wearing women's clothes or shaving off a beard is necessary for a male to become a transwomen.

This consultation is open to anyone - you don't have to be Scottish! This is because if someone changes their legal sex in Scotland it's likely to apply throughout the whole of the UK. This may be the only chance UK women's voices are heard.

GUIDE TO THE SCOTTISH CONSULTATION ON REFORM OF THE GENDER RECOGNITION ACT - closing date 1st March 2018

SHOULD SCOTLAND MOVE TO SELF-DECLARATION FOR LEGAL GENDER RECOGNITION?

The Scottish government wants the process to be administrative rather than medically supervised. Signing a form in the presence of a witness will be all that is required to become seen as the opposite sex in the eyes of the law. Officials will no longer have the authority to assess the validity of the requests.

>>> By making it easier for transgender people to swap legal sex class will mean biological women will lose the right to have their own legal sex class unique to them. The protected characteristic of sex underpins all biological women's rights as a group and enables sex discrimination to be monitored and addressed. The rights of both groups must be fairly balanced.

>>> Removing any need for proof will make the process easier and quicker but will also mean some people will abuse the system. ANY man will be able to self-declare himself legally female. This will have dangerous consequences for women within the prison system. Any male prisoner will be able to self-declare himself female and be entitled to live in a women's prison. Prison officials will have no powers to challenge this legal change and it is unknown how many male prisoners will request a transfer. It is wrong that women prisoners will be forced to live with male-bodied people and be put at risk from physical and sexual abuse. This is not a hypothetical risk. There are already examples of murderers and rapists being transferred to women's prisons and subsequently assaulting women there.

SHOULD SCOTLAND EXTEND LEGAL GENDER RECOGNITION TO CHILDREN (16 and/or under)

The Scottish government wants all children of 16 and 17 to be able to self-declare their own legal sex. They also wish to extend the process to children under 16 with or without parental or court consent.

>>> Adults are free to make autonomous choices about their lives, but children are still learning and developing. Children can't give 'informed consent' for 'choices' that they don't have the life experience to consent to.

>>> Affirmation of a child's gender identity by parents and trusted adults can and will impact the outcome. Undue influence cannot be ruled out and there are no long-term studies showing this is beneficial for childcare Court or parental consent is not sufficient to safe-guard children when it comes to changing their legal sex class.

>>> A transgender identity is not the only potential outcome for a gender non-conforming child. It is a known precursor to a gay or lesbian orientation in adulthood. Over 80% of children who think they are the opposite sex grow out of it by puberty.

SHOULD SCOTLAND EXTEND LEGAL GENDER RECOGNITION TO INCLUDE NON-BINARY?

The Scottish government also wants to improve recognition of a non-binary identity. This means neither male or female. Ideas range from including non-binary as an alternative option to Male and Female on official forms to full legal recognition of non-binary as a third sex and its protection under equality law.

>>> Non-binary is a gender identity and is NOT a third sex class. People should be free to express their gender however they wish, free from discrimination, but their biological sex is still either male or female. Non-binary is not a biological state of being. It is not an intersex condition. People who identity as non-binary are either fully male or fully female. They are not a third sex class.

>>> The creation of a third sex class will impact society. Which single-service will a non-binary person be eligible for and will they need their own service? Many laws and customs are based on two sexes and will need to be changed to accommodate a third sex. e.g. husband and wife, sexual orientations. Sex-based statistics will also rendered inaccurate if people can choose a third sex.

SHOULD SCOTLAND REMOVE THE NEED FOR SPOUSAL CONSENT?

At the moment if a trans person is married they must get the consent of their spouse. This is because changing legal sex fundamentally changes the marriage contract from a mixed-sex to a same-sex marriage (or vice versa). If the spouse does not wish to continue in the marriage the process of legal gender change can be used as a grounds for divorce.

>>> The Scottish government wants to remove the need for the spouse to consent to this fundamental change in the marriage and remove their ability to apply for a divorce on the grounds of legal gender change. This is likely to disproportionately impact women who are more likely to be financially dependent on the marriage. There may also be religious reasons why they do not wish to file for divorce. This change could mean women are forced to stay married to a husband who now identifies as a woman. At the very least legal gender change must remain a valid grounds for a divorce.

If a trans person is in a civil partnership they must currently either end the partnership or convert it into a marriage (with the consent of their partner).

>>> The Scottish government wants to change this to allow legal gender change to happen within a civil partnership. This would require an exception to be made to civil partnerships (which are same-sex only) to allow them to be mixed-sex in the special case of legal gender change.