



Nicola Williams  
nicolawilliams@fairplayforwomen.com

Our Reference: 202000013022  
Your Reference: Freedom of Information Request

19 February 2020

Dear Nicola Williams ,

## REQUEST UNDER THE FREEDOM OF INFORMATION (SCOTLAND) ACT 2002 (FOISA)

1. Thank you for your request dated 23 January 2020 under the Freedom of Information (Scotland) Act 2002 (FOISA).

### Your request

2. You asked for:

"In the consultation document for the draft Gender Recognition Reform bill the Scottish government has stated there are strong reasons for reforming the GRA. Some of these strong reasons are listed as: The current procedure is demeaning, intrusive, distressing and stressful and that there is a need for simplification (para 3.44) and that the process takes too long, is too difficult or too expensive (para 3.24).

Only one solution is now being proposed as the solution which involves the removal of medical evidence. However there will be many ways to make a procedure less intrusive, less stressful, shorter, less expensive and less difficult that does not include the removal of medical evidence requirement. There is no information in the consultation document about the advantages or disadvantages of these other options and why removal of medical evidence was considered the best option.

1) Please confirm that other alternatives to the removal of the medical evidence requirement has been discussed and why these options were rejected.

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See [www.lobbying.scot](http://www.lobbying.scot)

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2) Please send copies of all meeting minutes and emails where alternatives were discussed and the decisions for rejecting them were made."

## **Response to your request**

5. I will respond to your questions in turn:

"Please confirm that other alternatives to the removal of the medical evidence requirement has been discussed and why these options were rejected."

6. As part of the 2017/2018 consultation on gender recognition reform, the Scottish Government analysed a variety of systems of legal gender recognition currently in use by 16 other countries or territories. These included systems of legal gender recognition which require applicants to have received medical intervention, or to provide evidence from medical professionals relating to their gender identity, or systems which do not require medical evidence.

7. Proposing a reformed system of legal gender recognition which removes the requirement to provide medical evidence is central to the Scottish Government's view of the case for reforming the current system. Paragraph 3.26 of the 2017/2018 consultation outlined the initial view of the Scottish Government that Scotland should adopt a new system for legal gender recognition and said "this would mean that applicants under a Scottish system would not have to demonstrate a diagnosis of gender dysphoria". Paragraph 3.19 of the current consultation refers to "the adverse impact on people applying for gender recognition, due to the requirement for a medical diagnosis and the intrusion of having their life circumstances considered by the GRP", a UK tribunal. Paragraphs 3.27 to 3.29 of the current consultation did specifically outline concerns raised by some respondents to the 2017/2018 consultation on the medical requirements of the current application process.

8. Paragraph 3.35 to 3.37 of the current consultation note that the reclassification of "gender dysphoria" by the World Health Organisation points to the need to revise the current definition of "gender dysphoria" at section 25 of the GRA. Gender identity disorders are no longer listed in the "Mental and behavioural disorders" chapter and are now in the new "Conditions related to sexual health" chapter. The WHO have done this to reflect evidence that trans-related and gender diverse identities are not conditions of mental ill health, and classifying them as such can cause distress.

9. The Scottish Government's view of the case for a statutory declaration based system is outlined in Chapter 3 of the current consultation. You can also find relevant information about the views and evidence provided by the respondents to the 2017/2018 consultation in the analysis of those responses.

10. The above information is available from:

- 2017/2018 consultation <https://www.gov.scot/publications/review-gender-recognition-act-2004/>
- Analysis of responses to 2017/2018 consultation <https://www.gov.scot/publications/review-gender-recognition-act-2004-analysis-responses-public-consultation-exercise-report/>
- 2019/2020 consultation <https://www.gov.scot/publications/gender-recognition-reform-scotland-bill-consultation-scottish-government/>

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Under section 25(1) of FOISA, we do not have to give you information which is already reasonably accessible to you, If, however, you do not have internet access to obtain this information from the websites listed, then please contact me again and I will send you a paper copy.

“Please send copies of all meeting minutes and emails where alternatives were discussed and the decisions for rejecting them were made.”

11. As noted, the Scottish Government did not consider proposing a reformed system of legal gender recognition which retained the requirement to provide medical evidence.

### **Your right to request a review**

If you are unhappy with this response to your FOI request, you may ask us to carry out an internal review of the response, by writing to Neil Rennick, Director of Justice, Room GW-02, St Andrew's House, Regent Road, Edinburgh, EH1 3DG or by email to Neil.Rennick@gov.scot. Your review request should explain why you are dissatisfied with this response, and should be made within 40 working days from the date when you received this letter. We will complete the review and tell you the result, within 20 working days from the date when we receive your review request.

If you are not satisfied with the result of the review, you then have the right to appeal to the Scottish Information Commissioner. More detailed information on your appeal rights is available on the Commissioner's website at: <http://www.itspublicknowledge.info/YourRights/Unhappywiththeresponse/AppealingtoCommissioner.aspx>.

Yours sincerely

Claire Martin  
**CLLS : Family Law**

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