

Gender Recognition and Trans Rights in the UK

The Gender Recognition Act 2004 (GRA) is the UK legislation through which some trans people are able to obtain a Gender Recognition Certificate, which in turn allows them to change their gender marker on their birth certificate. This has an impact on things like marriage, pensions, and death certification. It is **not** the legislation that provides for changing gender markers on other documents (such as passports or driving licenses), access to healthcare, or access to single-sex spaces – that comes from the Equality Act 2010 (which remains unchanged).

In 2018, the UK government ran a [public consultation](#) on potential reforms to the GRA. A separate series of consultations was run to reform equivalent legislation in Scotland; the Scottish Government have since stated that any reform will be delayed for the duration of this Scottish Parliamentary term. While the GRA extends to Northern Ireland, they are also devolved on this issue, so any reform to the legislation would not have applied there.

The consultation received over 100'000 responses, the majority of which agreed that the process of legal recognition for trans people should be reformed. For example, 80.3% were in favour of removing the requirement for a medical report, 78.6% were in favour of removing the proof of living in their gender requirement, and 64.1% said that there should not be a requirement for a diagnosis of gender dysphoria.

On 22 September 2020, the government released its [response](#) to the GRA consultation. **Despite strong public support for an overhaul of the process for obtaining a Gender Recognition Certificate, no legislative changes were made.** Instead, the UK government announced that it is making minimal non-legislative changes to streamline the current process, including digitising the application process, and reducing the application fee from £140 to a nominal amount (likely ~£5). This means that to obtain a Gender Recognition Certificate trans people in England and Wales will continue to need: a medical diagnosis of gender dysphoria from an approved medical practitioner; a medical report from an approved medical professional providing details of any treatment they have had; evidence they have lived in their new gender for at least two years; agreement from their spouse/civil partner to the marriage/civil partnership; and a statutory declaration that they intend to live in the acquired gender until death.

This means that the process remains mostly the same, and continues to pathologise trans identities and require a heavy burden of evidence to obtain full legal recognition. This is despite recommendations from many, including the [British Medical Association](#), to remove these requirements and allow trans people to obtain legal recognition on the basis of self-determination. It also means that non-binary people continue to lack legal recognition in the UK, and the process for legal recognition is still not open to under-18s.

The government also announced that they will be opening at least three new gender clinics this year, to cut waiting lists (which can be [up to three years](#) before a first appointment). However, the creation of these new clinics was actually announced

back in 2018, and so does not represent any additional investment in the UK's incredibly under-resourced transition-related healthcare system by this Government. Waiting lists for Gender Identity Services are currently years long – three new services is not enough to ensure equitable access to healthcare for trans people.

Stonewall has released a [statement](#) outlining the shocking failure of this decision from the UK government. The All Party Parliamentary Group on Global LGBT+ Rights also released a [statement](#), welcoming these minor improvements to the process, but expressing that the decision falls woefully short of reasonable expectations, and sends an unwelcome signal about Global Britain's commitment to LGBT+ equality. The APPG also highlighted the UK's current leadership of the Equal Rights Coalition, stating that this decision undermines their claim to global leadership on LGBT+ rights.

To continue to be a leader in global LGBTI rights, the UK government should not only move forwards on legal gender recognition for trans and non-binary people, but also improve access to healthcare for trans people, address the recent rise in recorded [transphobic hate crimes](#), and implement a meaningful legislative ban on conversion therapy.

Considering the UK government's inaction on GRA reform, LGBTI civil society in the UK will be looking to alternative routes to improving the material conditions for trans people in the country. For example, a recent [employment tribunal decision](#) affirmed that non-binary and genderfluid people are protected from discrimination under the Equality Act 2010 (which lists "gender reassignment" as a protected characteristic). This indicates that legal routes through the courts may be a useful mechanism to increasing equality. In addition, the GRA is specific to gender markers on birth certificates – so other routes are available to move towards official gender recognition for non-binary people, such as campaigning for an X marker on passports and drivers' licences.

Finally, alongside the GRA announcement, NHS England announced a [full review](#) of gender identity services for children and young people. We welcome the opportunity to improve how gender identity services are run across the country.

Overall, whilst the decision from the government not to reform the Gender Recognition Act is extremely disappointing, the overwhelming public support for trans rights shown in the consultation (where the vast majority of respondents did not identify as trans) is a positive sign that the next steps taken by LGBTI civil society will be backed by the general public, and thus we are hopeful that we can succeed in moving forwards on trans rights in the UK.

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