BLOG

On International Human Rights Day Forth Valley Rape Crisis would like to express our full support of all of the proposed reforms to the Gender Recognition Act and encourage all those committed to the advancement of human rights to respond to the on-going Equal Recognition consultation (Hyperlink??).

As a movement, Rape Crisis have always fought against the rigid gender stereotyping that each of us experience, which is rooted in patriarchal notions of gender as binary. Alternatively, we advocate that everyone should be able to express themselves in the way in which feels reflective of their individual identity and not that which is ascribed to us by society.

As a feminist organisation working to eradicate sexual violence it is essential to oppose the abuse of power over people of marginalised gender identity at both an individual and institutional level.  The current process of legally changing gender targets trans people and their right to autonomy over their own lives, identity and bodies.  It makes medical diagnosis a necessary requirement and in doing so affords power to state institutions and professionals within the private and personal lives of trans people.

By requiring a psychiatric report which states they have been diagnosed as having gender dysphoria, the state is pathologising trans people and violates their right to privacy and self-determination. There is still significant stigma of trans identities within our society and, as a result, there are many barriers trans people face in being open about their identities. This process forces people to give up their relative rights in order to gain legal recognition of their identity, a process which makes you consider the reality for those who do not gain this through the current system.

The current process of legally changing gender requires trans people to be ‘living’ in their ‘acquired gender’ for a period of two years prior and to provide evidence of this. The two year period that requires trans people to live in their acquired gender while legally recognising them otherwise invites situations where they are forced to be out and as a result, exposed to an increased risk of sexual violence often in the form of ‘hate crime’. Hate crime perpetrated against trans people consistently takes the form of sexual harassment and sexual assault.

Forth Valley Rape Crisis are hopeful the legislation will be reformed and believe that the rights and safety of trans people will be greatly improved and as a result.

Brief overview

The Equal Recognition Campaign is spearheaded by the Scottish Trans Alliance and the Equality Network as a call to reform the Gender Recognition Act 2004 to improve the lives of trans people and bring the Scottish legislation up-to-date in line with the international human rights best practice.

Prior to the legislation being passed in 2004, people seeking to have their gender recognised could do so on documents such as their passport. The Gender Recognition Act allowed the amendment of a person’s gender on their birth certificate by receiving a medical diagnosis of gender dysphoria and proof that that person had been living in their ‘acquired gender’ for two years. Currently, a birth certificate will only indicate gender as male or female, meaning those who identify as non-binary are made invisible by the state.

The Scottish Trans Alliance and the Equality Network have launched the Equal Recognition campaign to reform the Gender Recognition Act 2004 which is now open for consultation. During this period, they are seeking responses to the proposals they have put forward to the current legislation from groups and organisations, all of which will be considered by the Scottish Government when considering the future amendments to the legislation.

Forth Valley Rape Crisis would like to take this opportunity to express our full support of all of the proposed reforms to the Gender Recognition Act, which will be explored further in this statement.

First of all, it may be helpful to summarise the key points of the proposed reform. The Equal Recognition campaign is calling for the Scottish Government to:

* Remove the psychiatric diagnosis requirement from legal gender recognition
* Reduce the age at which people can get legal recognition of the gender they live as
* Provide legal recognition for people who do not identify as men or women

People wishing to change the gender on their birth certificate, which is what is considered someone’s legal gender, have to do so through a tribunal panel. In order to do so, they must undergo a lengthy process of being diagnosed as having gender dysphoria by a psychiatrist and provide proof that they have been living as their ‘acquired gender’ for two years.

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By requiring a psychiatric report which states they have been diagnosed as having gender dysphoria, the state is pathologising trans people and violates their right to privacy and self-determination. There is still a huge stigma of trans identities within our society and, as a result, there are many barriers trans people face in being open about their identities. This process forces people to give up their relative rights in order to gain legal recognition of their identity, a process which makes you consider the reality for those who do not gain this through the current system.

Under the current legislation, people under the age of 18 are prevented from accessing legal gender recognition. At the age of 16, young people in Scotland are deemed to have full legal capacity. The current legislation prevents people under the age of 18 from accessing legal gender recognition. This leaves young trans people aged 16 and 17 in a precarious position and sets them apart from their peers who do not identify as trans. It makes you consider why this right is an exception to all of the other legal rights a young person aged 16 or 17 is entitled to. Much concern has been reported in the media about young people accessing medical interventions, such as hormone blockers and surgical procedures, but the proposal around the reform is completely separate from those about gender reassignment medical treatment. When young people aged 16 and 17 are legally able to marry but unable to have their gender recognised, the heteronormative norms of our society and legislation couldn’t be more glaring.

Forth Valley Rape Crisis is a support service for people of all genders who have been affected by sexual violence. We have a strong commitment to the inclusion of all LGBTI people both within our service and wider society. It is well-documented that transgender people experience a high level of sexual violence and face additional barriers to accessing services as a result of their identity, and it is as a result of this that we believe it is imperative to work alongside organisations which trans people are already in contact with to support the rights of trans people.

We currently support a model of self-declaration for those accessing our services and acknowledge that this will not change the way in which we work alongside survivors and those affected by sexual violence. If we do not allow space for survivors to self-declare their experience of their gender, we are not a survivor-led organisation and do not offer support which is relevant to those accessing it. We believe what survivors tell us about their experiences and know that they are best placed to tell us how this has affected them.