

Gender Recognition Reform Campaign

2018-2019

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Introduction

Policy was passed at NUS-USI LGBT+ Conference 2018 mandating NUS-USI to support reform of the GRA (Gender Recognition Act). Recently the UK Government has opened a public consultation on reform of the Gender Recognition Act 2004, however this consultation and any future reform as a result of the consultation will not affect Northern Ireland as 'gender recognition is devolved to Northern Ireland.'

As Scotland has already held a consultation, this will leave transgender people in Northern Ireland with less rights than those in the rest of the United Kingdom. Alongside other long overdue and unaddressed equality issues such as abortion reform or marriage equality, the lack of gender recognition rights which are equal across the UK means we are again in the wholly unacceptable situation where another minority grouping in Northern Ireland are treated as second class citizens.

This document will outline the case for Gender Recognition Act reform as well as sharing resources on how to support the current consultation in England and Wales.

Gender Recognition Reform is part of the membership-approved NUS-USI Plan of Work and will be an ongoing active campaign area for the 2018/2019 academic year.

Who We Are

The NUS-USI LGBT+ Campaign is led by the elected LGBT+ Officer and LGBT+ Committee who are from various student unions in Northern Ireland.

NAME	ROLE	UNION	EMAIL	NOTE
Conor Loughran	LGBT+ Officer	QUBSU	conor.loughran@nistudents.org	
Dean Quinn	LGBT+ Committee	BMCSU	deannq@gmail.com	Trans Rep
Jay Prebble	LGBT+ Committee	QUBSU	jprebble01@qub.ac.uk	Trans Rep
Pelin Yildir	LGBT+ Committee	QUBSU	pyildir@gmail.com	
JD Armstrong	Welfare Officer / LGBT+ Committee	BMCSU	john-daniel.armstrong@nistudents.org	

Why reform the Gender Recognition Act?

Coming into effect on April 4th 2005, the Gender Recognition Act 2004 allowed for people who have met specific criteria to be able to legally change their gender. Whilst progressive and welcomed at the time, the Act falls short in many areas:

- Neither non-binary nor intersex people are recognised under UK law.
- Being able to legally change gender required a diagnosis of gender dysphoria which not all transgender people experience or feel they require healthcare treatment for.
- Does not address extensive waiting lists (up to years) for access to gender identity clinic services.
- Does not take into consideration impact of inaccessibility on disabled transgender people.
- Does not take into consideration higher homelessness rates amongst transgender people, a problem considering many GPs expect ID or proof of address.
- Contributes to misconception and damaging myth that being transgender is a mental/medical disorder.
- Requires applicants to provide evidence that they have lived as their gender identity for a period of time.
- Applicants for gender recognition certificate must make statutory declaration as part of the process.
- Contains provisions for spousal consent, essentially allowing for a spouse to have a veto. Particularly damaging in situations of domestic violence or abuse.
- Requires applicants to pay £140 fee to apply for Gender Recognition Certificate.
- In Northern Ireland, a change of gender identity from one or both members of an opposite-sex married couple will lead to forced divorce due to the lack of same-sex marriage.

Gender Recognition Act 2004 reform in England and Wales

In response to years of lobbying, the UK Government's Equalities Office decided to open up a consultation on reforming the GRA 2004 in England and Wales. At time of document publishing this consultation is ongoing and open to the public. An online survey which you can fill in can be found here:

<https://consult.education.gov.uk/government-equalities-office/reform-of-the-gender-recognition-act/consultation/intro/>

NUS LGBT+, NUS Trans and NUS Women's campaigns are actively supporting the consultation. These are the relevant officer contacts:

Rob Noon (NUS LGBT+ Open Place)

rob.noon@nus.org.uk

Eden Ladley (NUS LGBT+ Women's Place)

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Sarah Lasoye (NUS Women's Officer)

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The NUS Women's Campaign has created a document online which provides information in detail on the consultation, as well as offers advice on how to answer the survey questions. The link for that is here: goo.gl/yT9nPw

HAVE YOU FILLED IN THE GRA CONSULTATION?

THE GOVERNMENT ARE CURRENTLY SEEKING FEEDBACK ON HOW TO MAKE THE **GENDER RECOGNITION ACT** A BETTER SERVICE FOR TRANS PEOPLE.

TL;DR GUIDE TO HOW I FILLED IT IN

Q3: no	Q9: no ... (awareness of section 22 needs to be prioritised)	Q20: yes
Q4: no		Q22: whilst the reforms are necessary now, gender should not be under state control.
Q5a: no d: no	Q10-19: yr own views → answering whether the GRA changes will affect these things, not whether they should exist	
Q6: no		
Q7: no		
Q8: yes + examples		

- open until 11pm on 19th october
- takes between 15-30 mins (depends on details)
- all people can fill this in
→ and it may get a lot of responses from TERFs, so v. important ^{TO FILL IT IN!}
- NUS women's campaign has detailed info on their website for filling this in!

WOMEN'S CAMPAIGN WWW. NUS.CONNECT.ORG.UK / RESOURCES / GRA-CONSULTATION- GUIDANCE- ENGLAND- AND- WALES

Gender Recognition Law in Northern Ireland

The Gender Recognition Act 2004 extends to Northern Ireland, however the UK Government consultation or any possibly reform **does not**, meaning transgender people here will be left with less rights than transgender people in Scotland, Wales or England. Through reading the UK Government's document on the GRA consultation it's made clear several times that Northern Ireland is not covered by the consultation nor resulting reforms.

Within the document itself, these are the lines which refer to Northern Ireland with a summary beside them:

Page 12 (Paragraph 11 under **Devolution**) - More 'divergence' in future due to independent Scottish action. Consultation 'concerns England and Wales only.'

Page 20 (Paragraph 19) - Process for changing legal gender 'broadly the same' across UK but again, NI left out of consultation.

Page 58 (Paragraph 157 and 158 under **Domestic recognition**) - 'only relates' to England and Wales.

Page 58 (paragraph 162 under **Northern Ireland**) - 'gender recognition is devolved to Northern Ireland'

The official Government document regarding the gender recognition reform consultation is here:

https://consult.education.gov.uk/government-equalities-office/reform-of-the-gender-recognition-act/user_uploads/gra-consultation-document.pdf.

Anti-discrimination and Equality Law in Great Britain

The Equality Act 2010 was an update to previous equality legislation, particularly with regards to anti-discrimination legislation in England, Scotland and Wales. This covered all grounds of discrimination (race, sex, age, disability, gender identity, etc) however it **did not** extend to Northern Ireland.

In England, Wales and Scotland the Equality Act 2010 provides the following in relation to transgender equality:

- Gender reassignment named as protected characteristic.
- Medical supervision taking place as part of gender reassignment removed.
- Main protections from Sex Discrimination Act carried over.
- Protection from discrimination due to association.
- Protection from indirect discrimination.
- Extension of public sector equality duty.
- Protection for gender reassignment discrimination in education.

Whilst gaps in protection remain (hence the GRA consultation), anti-discrimination and equality law in Britain is considerably more advanced and inclusive than current legislation in Northern Ireland.

Anti-discrimination and Equality Law in Northern Ireland

The Equality Act 2010 does not extend to Northern Ireland. In fact, Northern Ireland has no single equality act but relies on legislation such as (but not limited to):

Sex Discrimination (Northern Ireland) Order 1976

Prohibits discrimination on the grounds of sex, pregnancy and maternity, gender reassignment and marital or civil partnership status.

Disability Discrimination Act 1995 (DDA)

Prohibits discrimination on grounds of disability.

Employment Equality (Sexual Orientation) Regulations (Northern Ireland) 2003

Prohibits employment discrimination on grounds of sexual orientation.

Legal Protections for Transgender People in Northern Ireland.

In addition to the **Sex Discrimination** legislation (which is notably 42 years old), **Section 75 of the Northern Ireland Act 1998** places a duty on designated public authorities to promote equality of opportunity between many different groupings, including transgender people.

For the purposes of the law, a transgender person is someone who 'is intending to undergo, is undergoing, or has undergone gender reassignment'.

Section 75 however does not cover schools, but it does include further education colleges and universities, therefore NUS-USI's membership are protected by this law.

Transgender people are also, of course, covered by the **Gender Recognition Act 2004** which extends to Northern Ireland and the **Criminal Justice (No. 2) (Northern Ireland) Order 2004** which covers transphobic hate crime and incidents.

It must be noted that if a change in the registration of their gender means a married couple's relationship is considered a same-sex one, then the couple would be legally required to divorce before the trans person could register their gender.

NUS-USI LGBT+ Campaign Aims

It is the belief of the LGBT+ campaign that trans, non-binary and intersex people should be equal under the law across the United Kingdom. The Northern Ireland government at Stormont has failed on several occasions to bring Northern Ireland in line with the United Kingdom in terms of equality law and this is a failure on the part of the Westminster government also.

Many equality issues are intersectional in nature. Marriage equality for example is important for the entire LGBT+ community and having progressive legislation for Northern Ireland which does not enforce divorce on trans couples in same-sex relationships is as equally important to same-sex couples being able to marry. Marriage should not be defined or limited to any gender. With regards to abortion reform and bodily autonomy, any person who can become pregnant deserves equality under the law. In addition, bodily autonomy should include the right of any person to have control over their own body.

Unfortunately, there has been a significant resistance to reform of the GRA in England and Wales, with a vocal minority being actively transphobic and discriminatory towards trans people on social media. It is our resolve that any transphobic abuse and harassment are illegal and should be treated as such and that these negative attitudes highlight exactly why reform is needed. Simple tolerance isn't enough. Transgender people should be equal in society, able to live comfortably and happily free of discrimination and have easy access to healthcare.

For NUS-USI it is therefore our aim to ensure that the Gender Recognition Act (2004) is updated as well as equality legislation created which explicitly recognises and offers protection for transgender, non-binary and intersex individuals.

What you can do for Gender Recognition Reform

You have more of a say than you think. By answering the survey for the consultation on reform of the GRA, you can contribute in a matter of minutes to securing better rights and standards for trans people in England and Wales.

At home in Northern Ireland, you can ensure your student union is a safe place for trans students. By focusing on trans inclusivity and by listening to trans students on the issues which affect them, you can have a significant impact.

Over the coming months a campaign on demanding gender recognition reform and equal rights for trans people in Northern Ireland will launch – support it. Get involved. Pass policy at your local union council meetings, support your trans officer and the work of your student union.

Want to know where to start?

Interested in learning more?

Get in contact with NUS-USI using the information provided on page 1. We welcome all queries and questions and are ready and willing to help in whatever way we can.