

Submission To The Gender Recognition Act Review Group (Department of Social Protection)

This submission is by GenderJam NI, the charity for trans, non-binary, questioning and intersex young people in Northern Ireland. We support people aged 12 to 25 across the region, and a growing number of people in the border counties of the Republic of Ireland.

Do you think the current legislation needs to be changed?

The current legislation is comparatively good with reference to Northern Ireland's UK-based law, and has seen good access for many in the community since 2015. However, there are significant areas which need revision to become more accessible to the rest of the trans community.

1. Arrangements for children aged 16 to 17 years;
 - Young people aged 16 to 17 are currently forced through a pathology-based medical and psychiatric process similar to the current UK legislation. This is not fit for purpose. Young people need to be permitted access to self-declaration based gender recognition processes in order to exercise and protect their rights as young trans individuals.
 - A lack of self-declaration based access for young people leads to an inequality of access to civic society, especially in the fields of education and healthcare.
2. Arrangements for children aged under 16 years;
 - Children and young people aged under 16 years old are currently prohibited from accessing gender recognition processes in every case. This is not fit for purpose.
 - A lack of access to gender recognition processes for children and young people under the age of 16 leads to inequalities in education.
3. Arrangements for persons who identify as neither male nor female (e.g. non-binary);
 - People whose gender is neither male nor female are currently required to either not go through gender recognition processes, or

inaccurately declare as the other legal gender. This is not fit for purpose.

- Non-binary people should be able to authentically represent themselves with identification, state records and gender recognition processes.
4. Arrangements for intersex people;
 - Intersex people are currently able to access the processes of the gender recognition system, though barriers to non-binary inclusion and for children and young people raise profound barriers for many intersex people.
 5. Any other relevant issues, including issues relating to the operation of the current legislative provisions (i.e. the Gender Recognition Act 2015).
 - Currently, due to people born in Northern Ireland not being able to access Irish birth certificates, and the UK Government not recognition Irish GRCs, many Northern Irish trans people are not able to access their rights guaranteed by the provisions, wording and spirit of the Good Friday Agreement and associated other agreements and cross-border legislation.

If so, what changes do you think need to be made?

1. Arrangements for children aged 16 to 17 years;
 - Young people aged 16 to 17 should be able to access gender recognition processes on the same basis as those over the age of 18, in all cases.
2. Arrangements for children aged under 16 years;
 - Children and young people aged under 16 years old should be able to access gender recognition on the basis of parental or guardian consent, or where this is denied, when it is in the best interests of the child.
3. Arrangements for persons who identify as neither male nor female (e.g. non-binary);
 - People whose gender is neither male nor female should be able to access gender recognition processes in a suitable way, including access to appropriate gender-neutral legal gender markers on GRCs, birth certificates, passport and other identification.
4. Arrangements for intersex people;

- Intersex people should be able to access gender recognition processes on the same basis as trans people, including as young infants. It is generally the view of intersex communities that they do not wish to be explicitly included in the gender recognition legislation, rather that all processes within are accessible to intersex people.
5. Any other relevant issues, including issues relating to the operation of the current legislative provisions (i.e. the Gender Recognition Act 2015).
 - Gender recognition processes should continue to be available for people with non-Irish birth certificates. The processes should be made more accessible and with stronger links to the UK system to guarantee stronger access to recognition rights to Northern Irish citizens.

What should the Review Group recommend in its final report?

1. Arrangements for children aged 16 to 17 years;
 - That the age for recognition on the basis of self-declaration be reduced to 16 years.
2. Arrangements for children aged under 16 years;
 - That recognition be available to children and young people with no lower age limit. This should be on the basis of parental or guardian consent, or where this is not available, granted by the state where it is in the best interests of the child. This should not require medical or psychiatric evidence in any case except where required to establish best interests cause.
3. Arrangements for persons who identify as neither male nor female (e.g. non-binary);
 - That recognition be available on the basis of legal gender outside the current binary system. This means that a third legal gender category should be established, on an equal basis to the existing two. This should be available on the same basis as other gender recognition processes.
4. Arrangements for intersex people;
 - That all processes remain and are accessible to intersex people, including infants and young children.
5. Any other relevant issues, including issues relating to the operation of the current legislative provisions (i.e. the Gender Recognition Act 2015).

- That the Irish Government request the UK Government to recognise Gender Recognition Certificates issued by the Department of Social Protection.
- That as much as possible, Northern-born Irish citizens are guaranteed the real-terms benefits of gender-recognition within Ireland.
- That Northern-born Irish citizens are able to access passports and other state documentation in Ireland on the same basis as other Irish citizens.
- That the wording and spirit of the Good Friday Agreement and other agreements should be protected and advanced in any changes made.

Is there anything else you would like to say on this topic?

The issues discussed here are of profound importance to many within the trans community. Gender recognition is symbolic of acceptance within society, and is required by an increasing number of trans people to gain access to their rights. True access to civic society requires accurate representation of the self within society, and this extends to representation to the state and on public and state documentation. Gender recognition processes should be as accessible as possible, using the principles and recommendations above.

This submission was authorised by the Committee of GenderJam NI on 03/02/18.