



Submission by St Patrick's Mental Health Services to the Department of Employment Affairs and Social Protection on the Review of the Gender Recognition Act

St. Patrick's Mental Health Services' vision is a society where all citizens are given the opportunity to live mentally healthy lives. St. Patrick's Mental Health Services (SPMHS) works to provide the highest quality mental health care, to promote mentally healthy living and mental health awareness, to advocate for the rights of those experiencing mental health difficulties, to support the investigation into and the enhancement of evidence-based knowledge and to develop the competencies of those committing to work in mental health and the organisations providing mental health care.

SPMHS provides three approved centres with a total in-patient capacity of 278 adult and 14 adolescent (12-18 years) in-patient beds as well as a range of evidence based, outpatient and community-based interventions. Services are specialised, evidence based and staffed by multidisciplinary teams delivering care and treatment. As a mental health service provider SPMHS acknowledges that gender identity exists on a spectrum with a continuum of possibilities. A person's sex assigned at birth and gender identity can differ and that gender identity is self-determined. Transgender people comprise a heterogenous group with a diversity of experiences, needs and wishes. Some individuals choose to transition socially, medically, surgically and/or legally.

St Patrick's Mental Health Services welcomes the opportunity to provide a submission as part of the public consultation on the Gender Recognition Act. The review of the Gender Recognition Act pertains to legal transition. SPMHS's submission will provide feedback on the arrangements for persons who identify as neither male nor female (e.g. non-binary); and arrangements for children under 16 and those aged 16-17 years.

A: Arrangements for persons who identify as neither male nor female (non-binary)

The Yogyakarta Principles plus 10¹ which provide additional Principles and State Obligations on the Application of International Human Rights Law in Relation to Sexual

¹ Principle 31 of Yogyakarta Principles plus 10. http://yogyakartaprinciples.org/wp-content/uploads/2017/11/A5_yogyakartaWEB-2.pdf



Orientation, Gender Identity, Gender Expression and Sex Characteristics state that 'Everyone has the right to legal recognition without reference to, or requiring assignment or disclosure of, sex, gender, sexual orientation, gender identity, gender expression or sex characteristics.' The principles call on states to 'ensure that official identity documents only include personal information that is relevant, reasonable and necessary as required by the law for a legitimate purpose, and thereby end the registration of the sex and gender of the person in identity documents.'

Currently sex fields are mandatory on all travel documents under International Civil Aviation Organization rules. Guidelines for staff working in Passport Control and other areas would be advisable, so people who identify as a third gender are not subjected to intrusive questioning. Some countries do not accept a third gender, so barriers to travel need to be considered.

A move away from a binary concept of gender should be supported as it is a right for every human to choose their gender and there are a broad range of gender identities. Recent legislative reforms have led to other countries recognising additional gender identities. In Malta "X" has been introduced as an option in its international passports and public registries. Germany is preparing for the introduction of a third gender this year. Outside Europe, several countries, including Canada, Nepal, Australia, New Zealand, Pakistan and India, permit gender markers on passports in addition to "M" or "F", typically utilizing "X" as a third gender marker. Nepal uses "Other". In California people can identify as non-binary on state-issued identity documents. A gender-neutral "X" option would mean people would not have to specify their gender identity.

B: Arrangements for children under 16 years and those aged 16 to 17 years

Adolescence is a time where young people explore and establish their identity. The Committee on the Rights of the Child has recognised that gender identity is a key component of this exploration and has called on states to respect the rights of 'all adolescents to freedom of expression and respect for their physical and psychological integrity, gender identity and



emerging autonomy’² There is increasing diversity in gender expression, which can change over time. It is important that youth have a safe space for exploration of their identity and sufficient safeguards are in place to manage this exploration within the context of respecting their human rights. It is important that any change to legislation is informed by the four guiding principles of the Convention on the Rights of the Child. These principles call on states to ensure that no child is subject to discrimination³ and that in all actions concerning a child, the best interests of the child shall be the primary consideration⁴. When considering changes to the Act, the State must be mindful of their obligation to ensure the child’s right to life, survival and development to the maximum extent possible⁵ and respect the right of the child to be heard in all matters relating to them, with due weight given to their views in accordance with their age and maturity.⁶

St Patrick’s Mental Health Services believes that changes to Irish legislation for this group needs to consider the following:

1. Dutch research has examined developmental trajectories of persistence and desistence of childhood gender dysphoria/distress. The Center of Expertise on Gender Dysphoria at the VU University Medical Center Amsterdam has one of the longest-established specialist gender clinics in the world. Their reports revealed that most children (approx. 80%) with gender dysphoria will not remain gender dysphoric after puberty. Therefore, caution must be used with changes in pre-pubertal youth. It is important that all possibilities are kept open for the future.
2. Young people increasingly present with possession of gender variant feelings for a relatively short period of time. They have a right and need to be given sufficient time to process these feelings. If they do not have sufficient time to process these feelings, which may change over time they may later regret a legal transition.
3. Gender variance does not constitute a mental health illness. However, there are well-documented high rates of co-occurring mental health difficulties, self-harming behaviour, suicidal ideation and high rates of comorbid Autistic Spectrum Disorders.

² UNCRC ‘General Comment No. 20 on the implementation of the rights of the child during adolescence (2016) UN Doc CRC/C/GC/20 para. 33.

³ UN Convention on the Rights of the Child, Article 2.

⁴ UN Convention on the Rights of the Child, Article 3

⁵ UN Convention on the Rights of the Child, Article 6

⁶ UN Convention on the Rights of the Child, Article 12



Current international guidelines and best practice requires that prior to medical transitions (hormones) co-occurring issues are identified, addressed and relatively stable to safeguard the individual, ensure appropriate supports are in place and that the right path is being taken. If such issues are not identified and a medical transition does not yield the anticipated results for the individual, this may adversely impact on mental health.

4. Research shows that family support predicts a positive outcome for transgender youth. Appropriate structures need to be put in place to ensure that families are given appropriate support so they, in turn can support their transgender youth.
5. There is a risk that a legal gender change will become a requirement for other transitions, such a social transition in the school environment.
6. While the Yogyakarta Principles state that there should be no minimum age to change one's legal sex or gender, any person under 18 will need substantial support, including counselling, before making any decision.

Submission Ends

Dr Aileen Murtagh
Consultant Psychiatrist,
Willow Grove Adolescent Unit.

Mary O'Hora
Service User and Supporters Council
St Patrick's Mental Health Services