

# CONSULTATION ON REFORM OF THE GENDER RECOGNITION ACT 2004

A GUIDE FOR MARRIAGE SUPPORTERS



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### ABOUT THIS GUIDE

This is a guide for supporters of the Coalition for Marriage interested in participating in the consultation concerning reforms to the Gender Recognition Act 2004 in England and Wales, launched by the Government in July 2018.

The Government is currently deciding on how to update legislation covering the legal process by which a person may change gender. Many of the changes consulted upon would represent a significant change in how the law would approach gender identity.

The Coalition for Marriage encourages marriage supporters to respond on the basis that the position of traditional marriage, between a man and a woman, may be adversely affected by some of the proposed changes.

### HOW CAN I PARTICIPATE?

The online consultation portal is available at this address: <https://www.gov.uk/government/consultations/reform-of-the-gender-recognition-act-2004>

It is not compulsory to answer every question.

**The consultation is open to all.** It is particularly interested in hearing from affected groups including "religious organisations and people with religious beliefs" and medical practitioners, amongst others.

All evidence must be submitted by **23:00 on October 19th 2018.**

*This guide is not a substitute for your opinion or experience. It is intended to help supporters unfamiliar with some of the terminology used in the consultation by highlighting areas where traditional marriage may be affected.*

### ABOUT THIS CONSULTATION

The Government's consultation document asks for comments on a number of possible changes to the Gender Recognition Act 2004. These changes would apply only to England and Wales. Proposals include:

- **De-medicalised transgenderism** meaning that a person could change gender without undergoing an assessment by a doctor. Gender would be entirely disconnected from biology and become a matter of personal choice.
- **A reduced or removed transition period** meaning that a person would no longer have to live for two years as a member of the opposite sex before applying to change gender.
- **Removal of spousal consent** by removing the provision under which a person transitioning must get their spouse's consent to the change or alternatively have grounds for a divorce should they not wish their marriage to be re-registered as same-sex.

We strongly oppose all of these changes. In our view, they would create a riskier environment both for those considering such a change and broader society. These risks include:

**1: Bad faith** exposing women and children to individuals who may choose to change gender in order to gain access to vulnerable people or groups.

A 2011 study by Oxford University found that one reason doctors in Oxfordshire refused to authorise a person's request to change gender was that they were:

*"seeking gender reassignment to facilitate or normalise paedophilia. This latter small group described gender reassignment as a means by which to increase their intimate contact with children, which they viewed to be more socially acceptable in a female role."<sup>1</sup>*

This finding indicates that a medical assessment fulfils an important purpose in preventing those who wish to make a transition between genders in bad faith.

If gender were self-certified it may also be possible for individuals to change gender in order to access services

intended for somebody of the opposite sex, for instance a male seeking access to a female-only scholarship fund at a university.

**2: Spouses may be forced into same-sex marriages** if their permission is no longer required by law when their husband or wife changes gender.

**3: Trivialising both human sexuality and marriage** as the reforms conceive of gender entirely separated from biological reality. These changes would make it harder to advocate for traditional marriage based on the union of a biological man and woman.

**4: It is dangerous for the person transitioning** given that many studies (although not all) find a link between poor health, including suicide risk, and identifying as transgender<sup>2</sup>. No longer requiring these feelings to be discussed with a doctor is dangerous for the sufferer and may mean they no longer access the healthcare they need to recover.

**5: It leaves inadequate time for reflection** given the seriousness of the proposed change. The present system, which requires a person to first live as a member of the opposite gender, at least recognises the challenges of subsequent social integration. A self-declaration system will make legal transition faster, but possibly also increase the likelihood of rash decisions being made.

The Government proposals are based upon the recommendations of the House of Commons Women and Equalities Committee, and ultimately Resolution 2048 of the Parliamentary Assembly of the Council of Europe and 'Yogyakarta Principles'. However, the European Court of Human Rights in *Nicot v France (2017)* confirmed that the present 'assessment model' is already fully compatible with European human rights legislation. There is, therefore, no legal necessity to make any change to the existing legislation and we believe that to do so would cause more harm than good.

It is not mandatory to answer every question in this consultation. We have only given comments on those parts of the consultation which we believe are of the greatest importance to marriage supporters. Please use your discretion in deciding which questions to answer and how you wish to approach them.

## QUESTION THREE

**Do you think there should be a requirement in the future for a diagnosis of gender dysphoria?**

- Yes  
 No

Please explain the reasons for your answer.

**Considerations:** Yes. See the reasons summarised in the previous section.

Allowing self-declaration of gender would create problems including:

- Endangering vulnerable women and children by removing safeguards against transitions in bad faith.
- Removing adequate checks to provide medical support for the person transitioning, important given that there is evidence that amongst those who present with gender incongruence there is an "elevated prevalence of co-morbid psychopathology, especially mood disorders, anxiety disorders and suicidality".<sup>3</sup>
- Removal of the need for medical diagnosis potentially opens up the gender change system to frivolous abuse with individuals making multiple changes or changes motivated by access to, for instance, women only grants or facilities.

## QUESTION FOUR

Do you also think there should be a requirement for a report detailing treatment received?

- Yes
- No

Please explain the reasons for your answer.

**Considerations:** Yes.

Requiring a report that details treatment received is a protection against frivolous self-referrals and serves to enhance the integrity of the process.

## QUESTION FIVE

Under the current gender recognition system, an applicant has to provide evidence to show that they have lived in their acquired gender for at least two years.

**(A) Do you agree that an applicant should have to provide evidence that they have lived in their acquired gender for a period of time before applying?**

- Yes
- No

Please explain the reasons for your answer.

**(B) If you answered yes to (A), do you think the current evidential options are appropriate, or could they be amended?**

**(C) If you answered yes to (A), what length of time should an applicant have to provide evidence for?**

- Two years or more;
- Between one year and two years;
- Between six months and one year;
- Six months or less.

**(D) If you answered no to (A), should there be a period of reflection between making the application and being awarded a Gender Recognition Certificate?**

**Considerations:** (A) Yes.

(C) We believe that a person should have lived in their acquired gender for at least two years at the time of application. Again, this protects the integrity of the process by guarding against frivolous and bad-faith applications for change.

We suggest replying to section (B) only where you feel you have a detailed grasp of the existing process.

## QUESTION SIX

Currently applicants for a gender recognition certificate must make a statutory declaration as part of the process.

**(A) Do you think this requirement should be retained, regardless of what other changes are made to the gender recognition system?**

Yes

No

Please explain the reasons for your answer.

**(B) If you answered yes to (A), do you think that the statutory declaration should state that the applicant intends to 'live permanently in the acquired gender until death'?**

**Considerations:** Yes to both (A) and (B).

A statutory declaration may prevent some of the more spurious applications to change gender and provide a small measure of protection against frivolous gender changes. It shows the seriousness of the change being contemplated and helps stop it being undertaken lightly.

However, it must not be a binding commitment preventing someone reverting to living as a member of their birth sex later in life.

## QUESTION SEVEN

**The Government is keen to understand more about the spousal consent provisions for married persons in the Gender Recognition Act. Do you agree with the current provisions?**

Yes

No

Please explain the reasons for your answer. If you think the provisions should change, how do you think they should be altered?

**Considerations:** Yes.

It is important that a spouse who entered an opposite-sex marriage is not forced into a same-sex marriage with a person who legally shares their gender, against their will.

## QUESTION TWENTY

Currently, UK law does not recognise any gender other than male and female.

**Do you think that there need to be changes to the Gender Recognition Act to accommodate individuals who identify as non-binary?**

Yes

No

If you would like to, please expand upon your answer.

**Considerations:** No.

Non-binary people are those who believe that their gender is neither male nor female. Such a change may result in a further alteration to marriage laws, as non-binary is not a presently recognised category of person, undermining traditional marriage.

In addition, such a reform would likely lead to the creation of multiple categories of gender identity beyond male and female. Activists have proposed a plethora of identities, which would create confusion and further divorce gender from biological reality.

### KEEP UPDATED

To stay informed on the work of the Coalition for Marriage, and to receive updates on the Government's response to this consultation, please join the mailing list on our website: [www.c4m.org.uk](http://www.c4m.org.uk)

### REFERENCES

- 1 Saunders, Kate & Bass, Christopher. (2011). Gender reassignment: 5 Years of referrals in Oxfordshire. *Psychiatric Bulletin*. 35. 325-327.
- 2 See for instance: Reisner, S. et al. (2015). Mental health of transgender youth in care at an adolescent urban community health center: A matched retrospective cohort study. *J Adolesc Health*. 56(3). 274-279.
- 3 Zucker KJ et al. (2016). Gender Dysphoria in Adults. *Annu Rev Clin Psychol*. 12. 217-247.