

Nursing and Midwifery Council response to the Scottish Government's consultation on its draft Gender Recognition Reform Bill

Background

As the professional regulator of nurses and midwives in the UK, and nursing associates in England, we work to ensure these professionals have the knowledge and skills to deliver consistent, quality care that keeps people safe.

We set the education standards professionals must achieve to practise in the United Kingdom. When they have shown both clinical excellence and a commitment to kindness, compassion and respect, we welcome them onto our register of more than 700,000 professionals.

Once registered, nurses and midwives in the UK, and nursing associates in England, must uphold the standards and behaviours set out in our Code so that people can have confidence that they will consistently receive quality, safe care wherever they're treated. We promote lifelong learning through revalidation, encouraging professionals to reflect on their practice and how the Code applies in their day-to-day work.

On the rare occasions that care goes wrong, or falls short of people's expectations, we can step in to investigate, and take action when needed. But we want to prevent something going wrong in the first place. So, we promote a culture that encourages professionals to be open and learn from mistakes, gives the public an equal voice and where everyone involved is treated with kindness and compassion.

Protecting dignity

We welcome the opportunity to respond to this consultation on the Scottish Government's draft Gender Recognition Reform Bill. As the largest professional regulator in the UK we are committed to supporting improvements in equality, diversity and inclusion across the health and care sector.

We recognise that the proposals set out in the draft Bill are intended to protect the rights and dignity of trans people and improve the process by which trans people gain legal recognition of their affirmed gender through a gender recognition certificate (GRC). We are supportive of steps being taken to reduce the difficulties faced by the trans community when applying for legal recognition.

We are committed to hearing the voices of marginalised people, and in our engagement we have heard about the difficulties trans people have encountered when interacting with the current gender recognition system. We're also aware of health inequalities facing trans people, including higher prevalence of mental health issues, barriers accessing specialist services, and health care needs not being met.¹

¹ Government Equalities Office, [National LGBT Survey Summary Report July 2018](#)

We are mindful of the impact that debate on gender recognition reform may have on trans people, including those on our register, and we're clear that our position is one of support for inclusion, respect, kindness and compassion for all people.

We have been taking steps ourselves to formalise a simplified and inclusive service for our trans customers. We are developing a trans customer policy, in consultation with trans people and groups who represent them, and we have delivered gender identity training to hundreds of our employees. Stakeholders such as Stonewall have praised us for our trans inclusion work, and we are keen to show leadership on this issue.

Our response to key proposals

Our response is shaped by our role as the regulator of individual nurses, midwives and nursing associates, and as such we do not address issues raised in this consultation that fall outside our remit.

We welcome the Scottish Government's proactive work in this area to bring forward concrete proposals which seek to improve the lives and experiences of trans people. In particular, we recognise that de-medicalising the process of applying for legal recognition by removing the need to have medical evidence of a diagnosis of medical dysphoria reflects a more modern approach to recognising gender and protecting people's dignity.

The Scottish Government proposes to reduce the period of time in which trans people applying for a GRC must have lived in their affirmed gender before submitting an application from 24 to 6 months. We welcome any reform which means that official documentation would more often match a person's lived gender, as this could reduce the likelihood of queries during our identity checks of individuals, and reduce inadvertent disclosure by a third party to whom we make a query.

We note that the draft Bill contains provision to reduce the minimum age of people applying for legal gender recognition in Scotland to 16. We recognise there will be a range of factors to consider here, and this may require ongoing monitoring. From a regulatory perspective, the opportunity for people to engage with this process at an earlier age may result in less disruption for students on our approved courses, and lead to a higher likelihood that graduates joining our register will have the right documentation in place.

In October 2018 we made similar points in our response² to the Government Equality Office's (GEO) consultation on reform of the Gender Recognition Act 2004 in England and Wales. As a four country regulator, we'd welcome reform which addresses the issues we've outlined in our response across the UK.

² <https://www.nmc.org.uk/globalassets/sitedocuments/consultations/nmc-responses/2018/nmc-response--government-equality-office-gra-2004-consultation.pdf>

Our data

While our regulatory function is to ensure nursing and midwifery professionals deliver consistent, quality care that keeps people safe, we also welcome the diversity of the professionals on our register, which includes people who tell us their gender does not match the sex they were registered with at birth.

As of 31 March 2019, there were 4,427 people on the NMC register who said their gender identity did not match the sex assigned to them at birth, or within six weeks. This equates to 0.6% of our overall register (however the data for about 4.7% of people was 'unknown' or 'prefer not to say').

In Scotland, 534 people on our register told us their gender identity did not match the sex they were assigned at birth, with most of these people identifying as female (463, 86.7%). The percentages of both women and men in Scotland telling us their gender identity did not match the sex they were assigned at birth were slightly higher than on the register as a whole. The proportion of women on the register whose gender identity did not match the sex assigned to them at birth was 0.6% and for men it was 1.0%. In Scotland this was 0.7% for women and 1.1% for men.

Our data also tells us that people on our register in the UK whose gender identity does not match the sex they were assigned at birth are slightly younger as an overall group. They are also more ethnically diverse – only 56.6% of people whose gender identity differs from the sex assigned to them at birth were White British, compared to 71.7% of those whose gender identity matched the sex they were assigned at birth. It's therefore important that any processes designed for trans people must also reflect and respect their intersectional identities.

In our 2018 GEO response, we reflected on how non-binary people may be accommodated as part of gender recognition reform, and we are aware from our diversity data collection that some individuals on our register identified as non-binary. We acknowledge that this draft Bill does not currently intend to offer a route to legal gender recognition for non-binary people, however we would support steps taken towards the inclusion of non-binary people in future reform.

Conclusion

Thank you for the opportunity to respond to this consultation. We hope this response makes it clear that we support proposals which protect the rights and dignity of trans people and remove unnecessary barriers to legal gender recognition.

We welcome a more modern and simplified approach to legal gender recognition, both to enable us to carry out our regulatory functions more efficiently, and for the benefit of the trans people on our register, and throughout the UK, who deserve processes designed with inclusion and respect at their core.