



Wales Equality Alliance

A resource pack for Transgender people and allies

August 2018

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Introduction

On 3rd July 2018, the Government Equalities Office opened the public consultation on Reform of the Gender Recognition Act 2004¹. Until 19th October when the consultation closes, the public will be able to submit their views on changing gender and "how best government might make the existing process under the Gender Recognition Act a better service for those trans and non-binary people who wish to use it"². This resource kit will give the reader an overview of the issues relating to trans equality, what reform of the Gender Recognition Act involves and how to make an informed submission to the consultation to help trans people be treated more equally and lead a better life. Despite significant advances in equality in recent years, members of the trans community still suffer greatly from being in one of the most marginalised of minorities. Reform of the Gender Recognition Act will be one step forward towards creating a world where trans people can live happily and peacefully and be respected as equal members of society.

The content for this pack was created by members of the Wales Equality Alliance campaign committee. This was formed in March 2018 from members of the trans community and allies in Wales. Problems faced by the trans community with health care, hate crime and abuse aggravated by a hostile media and anti-trans campaigns brought members of the community to action. In addition to campaigning on the Gender Recognition Act, the Wales Equality Alliance campaigns for improved health care for trans people and an end to discrimination against and the abuse of trans people. The Wales Equality Alliance is partnered with Pride Cymru and works with local authorities and other organisations in Wales to further trans equality.

To keep up to date with the Wales Equality Alliance and to get in contact, follow us on Twitter at @Wales4Equality and visit www.walesequalityalliance.org

¹ <https://www.legislation.gov.uk/ukpga/2004/7/contents>

² <https://www.gov.uk/government/consultations/reform-of-the-gender-recognition-act-2004>

A New Hope – Proposed reforms to the Gender Recognition Act 2004

This section deals with what is in the consultation on reforms to the Gender Recognition Act 2004.

You can read the full details, as well as responding to the consultation at <https://www.gov.uk/government/consultations/reform-of-the-gender-recognition-act-2004>

Part One - Examination of the current criteria for obtaining a Gender Recognition Certificate (Questions 1-9)

The first area is straightforward. It seeks views on the criteria and processes involved in obtaining a GRC

These include questions on

- 1) Diagnosis of Gender Dysphoria
- 2) Treatment received
- 3) Living in Acquired Gender (currently 2 years)
- 4) Statutory Declaration
- 5) Spousal Consent
- 6) Fees
- 7) Privacy and Disclosure

What has not been asked in this section of the consultation is about the place of the Gender Recognition Panel. It has been suggested that having a panel of strangers making decisions about an individual's identity on the basis of documentary evidence, with no facility for personal representation and no right of appeal against the decision (unless on a "point of law", which would be difficult and expensive to prove) is inequitable.

It has been suggested that "self-declaration" would mean that there would be no need for evidence of 1, 2 and 3 above. Acquiring this information can be difficult and time consuming and currently any small error can be a reason for the Gender Recognition Panel to reject an application.

There has been suggestion that a Statutory Declaration (which it is a criminal offence to make fraudulently) will provide some protection from those seeking to disrupt the operation of the GRA.

Currently spousal consent is required if the marriage has not been annulled or terminated. This allows spouses to stop transgender people from obtaining their GRC even if they are separated. The separation process can be traumatic and acrimonious, so giving legal power to one party to stop the other carrying out the legal aspects of their transition might be viewed as the law intruding into personal matters where it has no place.

The current fee is £140, which discriminates against the economically disadvantaged. Transition has many expenses, whether clothing, treatments not currently offered by the NHS, costs associated with separating from a partner etc.

It is a principal of the GRA that a person who has official access to information that an individual has obtained a GRC cannot legally disclose this, except in very specific circumstances detailed in Section 22 of the Act. These exceptions are largely to do with the operation of legal processes such as court proceedings, or the investigation of crime.

Part two – Interaction of the GRA with other legislation (principally the Equality Act 2010) (Questions 10-19)

The most important thing to say about the consultation on updating the Gender Recognition Act (GRA) is that it does NOT propose changing the Equality Act 2010³ (EA2010) in any way at all.

However, the consultation does ask for evidence of any interdependencies between the GRA and EA2010.

The GRA consultation asks if reforming the process for gaining a Gender Recognition Certificate (GRC) will have any effects on the safeguards for other groups with a protected characteristic under EA2010.

A lot of focus recently has been on “women-only spaces” and the ability of trans women to access those spaces.

It should be noted that there is an exemption in EA2010 in relation to providing single sex services. This is applied to those under the protected characteristic of Gender reassignment in the following way

Gender reassignment

28(1)A person does not contravene section 29, so far as relating to gender reassignment discrimination, only because of anything done in relation to a matter within sub-paragraph (2) if the conduct in question is a proportionate means of achieving a legitimate aim.

(2) The matters are—

- a) the provision of separate services for persons of each sex;
- b) the provision of separate services differently for persons of each sex;
- c) the provision of a service only to persons of one sex.

The key issue of access to single-sex spaces that has raised controversy in the media is recognised by Question 13 Part D of the GRA Consultation

Do you think that the operation of the single-sex and separate-sex service exceptions in relation to gender reassignment in the Equality Act 2010 will be affected by changing the Gender Recognition Act?

It is our contention that this will not be affected by the GRA reforms for several reasons.

1. Trans people are already accessing single-sex spaces and have been doing so even before the legal protections under EA2010 were introduced.

³ <https://www.legislation.gov.uk/ukpga/2010/15/contents>

2. There is no evidence of trans women assaulting cis women in women-only spaces.
3. It is expected that there will be legal safeguards against wilful deviation from the intended purpose of the GRA, such as it being made an offence to fraudulently self-declare (or to falsely make a statutory declaration if that is the option taken forward).
4. There is no evidence that men have self-declared purely to invade women only spaces where forms of self-declaration have been introduced.
5. In the specific case of crisis support for rape and domestic abuse, many organisations already have policies that provide for the protection of all women, whether cis or trans.
6. Trans women are raped and suffer domestic abuse, and many of the organisations providing services for women in crisis provide for both trans and cis women alike, and already use the relevant section of EA2010 to tailor those services as necessary. It is recognised that the mental and physical wellbeing of all women, cis or trans, using these services must be the primary concern.

There is further examination of the issues with single-sex spaces in the final section below.

It should also be noted that EA2010 requires that any excepted conduct must be “*a proportionate means of achieving a legitimate aim*”. This means that denial of access to women-only spaces and/or services must be able to demonstrate a “legitimate aim”. The exception is NOT a license for any organisation to decide to exclude trans-women simply as a discriminatory measure.

It should be noted that arguments against allowing trans people to use single sex spaces and services are focused almost entirely on trans women. The rights (or lack thereof) of trans men is almost invisible in such arguments.

In addition to the operation of single-sex services (and the accompanying single-sex spaces), there are other exceptions in the EA2010.

These are principally

- 1) Occupational requirement – Where there is a specific requirement for someone with (or without) a specific protected characteristic. (this must be justifiable – you cannot simply discriminate because you want to)
- 2) Communal Accommodation – refer to “single-sex services points above)
- 3) Armed Forces – armed forces exemptions to allow “combat readiness”
- 4) Marriage Exception – see below
- 5) Insurance Exception – to allow proper actuarial practice

In terms of the marriage exemptions, the GRA states

A clergyman is not obliged to solemnise the marriage of a person if the clergyman reasonably believes that the person’s gender has become the acquired gender under the Gender Recognition Act 2004.

It is hard to see how this would be affected by the changes to the criteria for acquiring a GRC. There is a wider argument as to whether this exemption should be allowed, or exactly what

“reasonably believes” means. It would, however, take an exceptional person to insist that a person who objected to solemnise their own marriage who strongly objected to doing so. It would make for a tense rather than joyous occasion.

These other exemptions, it could be argued, have less of a direct effect on the day-to-day lives of trans people, and the criteria for obtaining a GRA would, in any case, have little or no effect on the operation of these exemptions.

Part 3 – Non-binary and Intersex (Questions 20-21)

These questions ask what should be done to the GRA to accommodate non-binary and intersex people.

In 2017, the World Professional Association for Transgender Health⁴ (WPATH) gave a position statement on gender expression as follows.

WPATH recognizes that there is a spectrum of gender identities, and that choices of identity limited to Male or Female may be inadequate to reflect all gender identities. An option of X, NB (non-binary), or Other (as examples) should be available.

Wales Equality Alliance wholeheartedly agrees with this statement and it is our policy to press for legal recognition and protection for non-binary and intersex people.

However, for the Government to recognise non-binary and intersex and provide the appropriate protections in law, one of the changes needed would be to the protected characteristics in the Equality Act 2010

Given the desire of self-styled “gender critical feminists”, also known as “Trans Exclusionary Radical Feminists or TERFs, to reduce the rights of trans people afforded by the Equality Act, the Government Equalities Office, which published the consultation, have clearly stated as part of this consultation that changes to the Equality Act are not on the table.

The changes to the Gender Recognition Act that are included in the consultation are an important part of giving control of their identity back to trans men and women. It is important that these gains are made at this time when the opportunity is presented.

This absolutely does not mean that the pressure to recognise non-binary and intersex identities and afford them the same protections under the Equality Act should be reduced, nor that protection and recognition of non-binary and intersex people is any less important than the gains that will be made by legislation arising from the consultation.

However, it does have to be recognised exactly what is on the table in this consultation and what has been ruled out before it has begun. Trying to achieve everything we aim for in one single step carries the risk of affecting what can reasonably be achieved as a result of this consultation.

A different strategy and possibly a different moment may be required to reach equality for non-binary and intersex people. No-one is being “thrown under the bus” or ignored by focus on what we can achieve in the short term.

⁴ <http://www.wpath.org/>

There may be benefit in this specific set of proposals for intersex people. Should an intersex person wish to have a (binary) gender recognised that is different to the one given to them at birth (because for registration of the birth currently a binary choice must be made) then the removal of the requirement for the medical criteria in the current GRA ought to allow this process to take place, but it is a legal grey area currently, and comments are invited by the consultation.

A History of Hate: Transphobia past and present

The Origins of Transphobia

The origins of transphobia are to be found in the ideology of the historically dominant political and religious conservative right who have been opposed to the existence of all LGBT people and to that end have reacted brutally in suppressing the LGBT community for millennia. The power elite in most countries of the world until very recent times has been a patriarchal male one which has simultaneously oppressed women; relegating them to at best second class citizen status and at worst simply the property of men throughout most of history. The origins of misogyny can be traced back to a time when survival and prosperity were based on physical strength (to which a larger number of males held a natural biological advantage.) The origins of homophobia appeared with the advent of the three main religions that became dominant worldwide due to migration, exploration and eventually imperialism – Judaism, Christianity and Islam. These three religions – which have subsequently become known as the patriarchal religions – are arguably neither homophobic nor misogynistic in essence, but it was the interpretation of them that were used to justify misogyny and homophobia by a dominant male power elite. Take misogyny (the view that women are inferior to men, therefore leading to their subordination) and add homophobia (the view that relations between individuals of the same sex is a sin against God) and combine them and this provides the recipe for transphobia.

This misogynistic and homophobic status quo persisted largely unchallenged through the ages of absolute monarchies & even though the so-called ‘age of enlightenment’ and industrial revolution until around the latter half of the 19th century, when women began to organise and campaign for equal rights. It wasn’t, however, until the last quarter of the 20th century that male homosexuality began to be decriminalised in most countries. When male homosexuality was decriminalised in the UK in 1967, society was largely unaware of the existence of a transgender community and, therefore, there was no accommodation for trans people with regard to recognition and rights had been made under UK law. This meant it was perfectly legal, for instance, for an employee to get fired from their job for being trans or refused goods and services by organisations and businesses purely on the grounds of their trans status.

It was not until 1999 that amendments to the 1975 Sex Discrimination Act were introduced guaranteeing protection from discrimination in employment and vocational training on the grounds of an individual’s trans status. This was followed by a further amendment in 2008 that made it unlawful to discriminate against an individual on the grounds of their trans status in the provision of goods and services. However, the first piece of trans-specific legislation was not introduced until 2004 when the Gender Recognition Act afforded legal protection on the grounds of transgender status to a restricted number of trans individuals who met certain criterion. It was only as recently as 2010 that the Equality Act accorded transgender the status of a ‘protected characteristic’, thereby extending the same rights to the majority of trans people.

The Political & Religious Right Today

Nowadays, the social and cultural transphobia of the political and religious right still exists but their power basis has been weakened; especially since the growth of atheistic ideologies throughout the course of the 20th century and the counter-cultural, sexual liberation and feminist movements whose power and popularity increased from the 1960s onwards. The political right also became discredited following the rise of the European fascist regimes of the middle of the 20th century and their eventual defeat in 1945. However, there has been a reaction to the liberalism and counter-culturalism of the 1960s and '70s during the last 40 years and the political right is on the rise again. The 2016 election of current US president Donald Trump has seen a concerted attempt by his reactionary, transphobic US Republican administration to roll back trans rights (many of them only just gained under the Obama administration.) This has included an outright ban on transgender people serving in the military, allowing individual states to ban trans people from using gendered public spaces & facilities of the sex they identify & present as, and passing laws giving organisations and businesses the option to refuse to provide services (including medical care) to trans people.

Both the accession of Trump to the US presidency and Britain's potentially economically disastrous Brexit have been fuelled by a rise in the alt-right and far right, typified by groups such as the US Tea Party, Ku Klux Klan, American Nazi Party, British National Party, Britain First and UKIP. Such groups and their individual members often espouse transphobia, as well as the racism, xenophobia, Islamophobia, anti-Semitism and misogyny that they're more widely noted for. Both Britain First leader, Tommy Robinson and prominent neo-Nazi, Jez Bedford-Turner have videos of their own transphobic rants on record via YouTube. UKIP's education spokesperson, David Kurten, has also hit out several times at the trans community, along with extreme Christian groups and individuals who oppose LGBT rights such as the evangelical pressure group, Christian Concern and hard-line individuals like Catholic pro-lifer, Caroline Farrow.

The idea of a sinister 'transgender agenda' is one that has gained increasing currency amongst conspiracy theorists such as David Icke. Brexiteer and self-styled 'Blue Labour' reactionary libertarian, Fire Brigade Union rep Paul Embery, also refuses to recognise trans women as women and regularly claims via his Twitter account and media releases that the notion of equal rights between cis and trans people to be a glaring example of 'political correctness gawn mad!'

However, if transgenderism is a Cultural Marxist plot, how on earth does the alt-right explain Trump lovin' right wing libertarian trans woman, Blaire White?

Sadly, with more opportunity than ever before to disseminate malicious misinformation and spread it to a wider audience than ever before - along with infinitesimal opportunities to cyber bully and harass other internet users - transphobic groups and individuals have turned social media forums such as twitter into no-go areas for a great number of trans people. Seemingly, they do so in most cases with impunity whilst invoking rights to freedom of speech, or if US-based, quoting their constitutional rights to hate speech supposedly guaranteed by the much hallowed First Amendment. Still others, misappropriate as

'Orwellian' any challenge they may receive by others to online misbehaviours such as inciting transphobic hatred and resorting to gratuitous ad Hominem attack.

Editors of reactionary libertarian online news magazines like Brendan O' Neill of 'Spiked', may or may not be genuine when they market themselves as 'crusading journalists' on a noble mission to safeguard unfettered freedom of speech. However, so much of the gender critical 'debate' they try to claim that the trans community are intolerant of (particularly online) would be clearly categorised as bullying and harassment if spoken by word of mouth or similarly 'funny phone calls by cranks' if transmitted via telephone - all of which constitute clear criminal behaviour.

Sticks and stones may break bones but do words really never hurt people? Considering statistics showing how much younger trans people, especially, suffer from low bodily self-esteem and have elevated rates of self-harm, the typical tactics of malicious misgendering, body shaming, slut shaming, posting of pre-transition pics without the subject's permission and unsolicited, typically derogatory remarks about genitalia that trans individuals are subjected to online is likely to have a serious effect on their well-being. And, are the latter, uninvited remarks about 'private parts' by others any different from blatant sexual harassment just because the person they're directed at happens to be trans? Moreover, the disturbingly frequent trend for transphobic cyber bullies to target individual trans people and make false accusations of paedophilia and other horrific sex offences against them has terrifying potential to ruin real lives in the real world, especially when accompanied by photos and location details of that person.

Elements of the Media

It is common knowledge that there is an extensively documented and all-pervasive history of transphobia in the UK media which can be traced back several decades to the first popular awareness of the existence of a trans community. Throughout the 1970s to the 1990s, at a time when the trans community was still very much in the closet and many individuals were forced to hide their trans status due to a hostile, ignorant climate along with lack of legal recognition and protection to guarantee trans people's rights, it was commonplace for UK tabloids such as the Sun, Mirror and Daily Mail to out trans members of the public, whip up ridicule, scorn and fear around them which often resulted in them being fired from their jobs, verbally and physically assaulted, driven out of their homes or even worse following such widespread exposure to intense negative publicity. Traditionally the UK tabloid media has largely put the trans community into the circus sideshow category.

Today, the UK press along with certain television channels remain dominated by an ideological tone which can broadly be described as reactionary libertarianism, often notoriously alt right in allegiance. This right wing libertarian influence (emboldened by the rise of Trump in the USA & Brexit) along with its transphobia seems to have expanded beyond the tabloids in recent years to encompass newspapers which were once considered 'serious' and reliable news sources - including former, world-renowned & respected broadsheet, The Times.

Simultaneously, as the trans community have become increasingly visible, organised and empowered on both a group and individual basis the sensationalism that the press could once achieve from outing, hounding, shaming and mocking individual trans people has lost a considerable amount of its former value as a news 'scoop'. Much of this new-found, increasing confidence amongst the trans community and awareness of trans people from those outside of it, is due to there being more widely available information and educational resources available on trans issues – thanks in largely in part to the advent of the internet and growth of social media as an alternative news, journalistic and information source and tool.

In 2018, gutter journalists on national newspapers can't get away with coming right out with it and referring to trans people as 'freaks' anymore. Therefore, now that people are better informed about trans issues than they were by comparison in the 1980s, those who wish to promote transphobic agendas typically attempt to do so via a much more insidious route.

Trans Critical/TERFs/Gender Critical Feminists

Alongside the traditional transphobia of the UK press, has emerged a worldwide fringe minority group of politically extremist self-declared 'gender critical feminists' (GCFs) many of whom claim to be aligned with the political left. This group are colloquially known as TERFs (Trans Exclusionary Radical Feminists), an acronym that they themselves consider offensive and defamatory. They seem to hold particular prominence in English speaking countries such as the UK, the USA, Canada and Australia and have been active since the 1970s. A seminal text from the start of their movement is US gender critical feminist Janice Raymond's *The Transsexual Empire*.

Core tenets of their beliefs are a refusal to acknowledge trans people as the gender they identify as, and they particularly resent trans women and trans girls whom they regard as anti-feminist males appropriating and erasing the definition of womanhood and invading women-only space both figuratively and literally. Trans men and trans boys are considered as women whose gender non-conformity has been derailed by a sexist society that will not tolerate it and therefore pressurises such individuals into transitioning to male. They largely regard the hormone replacement therapy and sex reassignment surgery that some trans people undergo as unnecessary 'mutilation'.

They are presented as the default feminist position on trans people and trans issues by a transphobic media and to that end are afforded a platform disproportionate to their actual numbers and influence within the feminist movement. The reality is that they are at loggerheads with the vast majority of (intersectional) feminists, who fully accept trans women as women and trans men as men and, moreover, are often at the forefront of challenging and demonstrating against anti-trans activist views and speakers.

Despite this, and despite the trans critical feminists' self-declared long-standing allegiance to the political left, because their hostility towards trans people happens to coincide with that of the traditional transphobia of the reactionary right establishment they have made an alliance in recent years, hence the platform that has been afforded to them by the mainstream media.

Prominent trans critical feminists are famed veteran Australian feminist, Germaine Greer, Canadian feminist Meghan Murphy, British feminists like Julie Bindel and Sarah Ditum, academics such as Drs. Heather Brunskell-Evans and Becca Reilly-Cooper, trade unionists such as current NUT president, Kiri Tunks, other activists from broadly left-wing backgrounds such as Linda Bellos, writer Bea Campbell, Venice Allan (aka Dr Radfem, expelled from the Labour Party for her transphobic harassment of 19-year-old Labour women's officer Lily Madigan), journalists such as Times columnist Janice Turner (who has eluded to the existence of a sinister transgender lobby that 'sacrifices' children) and activists such as Lily Maynard and Posie Parker (real name: Kellie Jay Keen-Minshull – questioned by police for slandering Mermaids' CEO, Susie Green with false accusations of child abuse.)

Sculptor and self-styled childcare 'expert', Stephanie Davies-Arai heads a trans critical pressure group called Transgender Trend which dismisses gender dysphoria in children as a deliberate willingness by a sexist society to recognise gender non-conformity. They consider treatments for GID such as the administering of puberty blockers by medical professionals as physical mutilation and the increasing numbers of parents who support their children by bringing them up in the gender they identify as to be child abusers. They have produced a resource pack for schools which advises teachers to deadname and misgender students irrespective of their wishes.

The trans critical feminist movement even includes some individuals who identify as trans – such as Miranda Yardley and Debbie Hayton. In common with other trans criticals, neither believe that trans women are women with the former even going so far as to reject womanhood altogether and identify as a trans identified male, whilst advocating a complete repeal of the original Gender Recognition Act which allowed trans people to amend their birth certificates to the sex they identify as.

Such individuals' and groups' activities have intensified recently due to proposed reforms to the Gender Recognition Act (currently under government consultation) which are intended to make it easier and faster for trans people to obtain a Gender Recognition Certificate, which involves having their birth certificates amended so they can be legally recognised as the sex they identify and present as. This has led trans critical feminists to form several groups to organise a campaign against the proposed reforms.

The main trans critical feminist group is A Woman's Place UK, although other splinter groups have been formed such as We Need to Talk, Fair Play for Women, Mayday 4 Women and the Man Friday group of activists. Such groups have organised speaking tours across the UK and are highly active on social media forums such as Twitter. Due to their connections within the media they are frequently championed and platformed by the many journalists who share their views – such as the Times's Janice Turner, the Spectator's James Kirkup and Helen Lewis, Deputy Editor of The New Statesman. Their cause has even attracted the 'white knighting' of normally staunchly anti-feminist, right-wing MPs such as Tory member for Monmouth, David TC Davies - who has lionised their beliefs and activities in newspaper articles and online; inviting trans critical feminist speakers to air their views at the House of Commons several times.

Despite this, championing of the trans critical 'cause' amongst mainstream politicians has been isolated as opposed to the widespread support they have received from a maverick UK media already steeped in transphobia. Labour leader Jeremy Corbyn is particularly unpopular amongst trans critical feminists for openly declaring that trans women are women live on air during an interview on BBC One's Andrew Marr show, along with confirming that trans women have as much right to be on Labour all women shortlists, to serve as women's officers and to apply for women-only training courses as any other women. Despite their fury at the Party's statement in May 2018, recognising trans women as women, a threatened 300-strong resignation of women from Labour intended by trans critical party members to protest this affirmation, in fact resulted in only 12 resignations.

At the core of such trans critical individuals' and groups' objection to the proposed reforms to the Gender Recognition Act is the claim that making it easier for people to change the sex on their birth certificates will lead to cisgender males with malign intent self IDing as women to gain access to female-only spaces -thereby putting women and girls at increased risk of sexual assault in places and situations where they are at their most vulnerable. A favoured tactic of theirs is to deliberately blur the line between cisgender males and trans women in an attempt to increase the feeling of threat amongst the general public. To that end, Man Friday, a group formed by trans critical feminists Amy Desir and Hannah Clarke, have pulled high profile stunts which have attracted wide media coverage, such as entering men-only swimming sessions at leisure centres and open air pools, using the justification that they are 'self IDing' as males in an attempt to alert the general public to the dangerous consequences of Gender Recognition Act reform.

Another characteristic of anti-trans activism is the attempt to create a link between trans people (and in particular trans women whom they consider as 'creepy men') sex offences, especially paedophilia. This can involve falsely accusing trans women of being sex offenders on Twitter to highlighting any stories in the news in which a person convicted of sex offences happens to be trans.

The protecting women and children argument is a moral high ground that anti-trans activists constantly try to occupy. By pushing the assumption that women's rights and trans rights are mutually exclusive, transphobes also automatically imply that trans women aren't women. Much of the reporting of this in the right-wing libertarian reactionary transphobic media also echoes this view, often concentrating on this being an example of innocent children's minds being poisoned by 'evil' trans activists with a terrifying agenda which won't even 'let kids be kids' anymore.

However, despite such widespread & all-pervasive misinformation, the proposed reforms to transgender rights in the UK have zero to do with the issue of gender segregated spaces. In the UK, there has never been any law against trans people using the public facilities of the sex they identify as and in any case it is the 2010 Equality Act which legally guarantees that right and not the Gender Recognition Act. Contrary to anti-trans activists' continual, scaremongering attempts to portray it otherwise, the proposed reforms to the Gender Recognition Act are all about making it easier and faster for trans people to amend their birth certificates - and also about introducing some legal recognition for individuals who identify as

gender non-binary (i.e. neither male nor female.) This is simply bringing such legislation into line with that which is already operating in many other countries – including Ireland – and for the record there have been zero examples of cisgender males IDing as female to gain access to women-only spaces so they can attack women and girls. In most cases opposition to the Gender Recognition Act reforms is actually a front for a more generalised attack on transgender rights by anti-trans activists.

Despite this reality, unfortunately it is clear that trans people and their allies have an uphill battle against the misinformation, scaremongering and demonization that is being promoted both by a fringe minority group of transphobic extremists whose unreasonable views have been elevated to undue prominence disproportionate to their numbers by an already ingrained, institutionally transphobic UK press.

The Body Politic – Trans rights in the political landscape

The Government and the Conservative Party

On 14th January 2016, the House of Commons Women and Equalities Committee published its report on Transgender Equality⁵. One of the findings reported was as follows:

“The medicalised approach regarding mental-health diagnosis pathologises trans identities; as such, it runs contrary to the dignity and personal autonomy of applicants. Within the current Parliament, the Government must bring forward proposals to update the Gender Recognition Act, in line with the principles of gender self-declaration that have been developed in other jurisdictions. In place of the present medicalised, quasi-judicial application process, an administrative process must be developed, centred on the wishes of the individual applicant, rather than on intensive analysis by doctors and lawyers.”

It was accepted that the Gender Recognition Act 2004 (GRA) was not fit for purpose and needed reform. After the 2017 general election which just about returned the Conservatives to power, Justine Greening, the Conservative Government’s Women and Equalities minister, announced plans in July 2017 for a nationwide survey of the LGBT community with aim of furthering equality. One of the main aspects targeted for reform was reform of the Gender Recognition Act 2004⁶. The process of changing gender was recognised as being overly medicalised, beauracratic, inaccessible and a degrading process for trans people. (See the section above for a full account and assessment of the Gender Recognition Act). The plan was to speed up the process of gender re-assignment and remove the necessity for a diagnosis of gender dysphoria⁷. The intention was to have a consultation published in the Autumn of 2017. There was little challenge to these proposals from within the ranks of Tory MPs with the notable exception of David TC Davies, MP for Monmouth. Davies, a hitherto little-known backbencher, took it upon himself to launch a crusade against the proposals and gained a great deal of media attention in the process⁸. The far right of the Tory party was focused on the Brexit project and payed little mind to the GRA proposals, although voices in Tory right press greeted the proposals with derision as did conservative voices in the Christian groups⁹.

⁵ <https://publications.parliament.uk/pa/cm201516/cmselect/cmwomeq/390/390.pdf>

⁶ <https://www.gov.uk/government/news/new-action-to-promote-lgbt-equality>

⁷ <https://www.theguardian.com/world/2017/jul/23/gender-reassignment-could-be-streamlined-under-proposal>

⁸ http://www.southwalesargus.co.uk/news/15643784.MP_says_gender_reform_plans_should_be_treated_with_extreme_caution/

⁹ <https://www.spectator.co.uk/2017/07/justine-greenings-idiotic-gender-policy-shows-its-time-to-give-up-on-toryism/>

The Labour Party

The position of the Labour Party on GRA reform and trans inclusion was confirmed by the National Executive Committee (NEC) in May 2018¹⁰. The statement centred on All Women Short Lists includes the following text:

“..the Labour Party is committed to reforming the Gender Recognition Act and the Equality Act 2010 to ensure they protect trans people. We will formulate more detailed policy to achieve that goal – whilst maintaining important safeguards and protections for all women, including vulnerable women...”.

The issue of All Women Shortlists, women’s officers and minimum quotas for women became controversial when Lilly Madigan, a 19-year-old trans woman, was elected as the first trans women’s officer of a Constituency Labour Party in November 2017¹¹. This event triggered a back lash with campaigns formed from “gender critical” feminists within the party. One involved a crowd funding effort aimed at making a legal challenge to the position. The gofundme campaign set up raised over £20,000 of a £40,000 target in six months and stated that “...the election of self-identifying transwomen as women's officers and their inclusion on all-women shortlists is reducing and undermining female representation in the Labour party”¹². This was contrary to the Labour Party’s inclusive position that “trans women are women”. The activist that created the crowd funding campaign was subsequently suspended from the Labour Party for transphobic hate speech online¹³. A high profile anti-trans activist, Venice Allan, was also suspended for transphobic hate speech online¹⁴. She went on to join far right Conservative MP, David TC Davies in holding a House of Commons event that smeared trans women as “parasites” while campaigning against GRA reform¹⁵. A man who wished to ridicule trans women while at the same time seeking to highlight opposition to trans women on All Women Shortlists was suspended for a stunt by standing for the position of Women’s Officer based on identifying as a woman on Wednesdays¹⁶.

¹⁰ <https://labour.org.uk/about/how-we-work/nec-statement-women-shortlists-womens-officers-minimum-quotas-women/>

¹¹ <https://www.independent.co.uk/news/uk/politics/lily-madigan-labour-party-transgender-officer-mp-young-abuse-threats-a8225771.html>

¹² <https://www.gofundme.com/fighting-for-female-representatives>

¹³ <https://www.pinknews.co.uk/2018/01/26/activist-who-launched-anti-trans-crowdfund-campaign-suspended-by-labour/>

¹⁴ <https://www.pinknews.co.uk/2018/01/23/anti-trans-activist-suspended-from-labour-party-after-posting-transphobic-memes/>

¹⁵ <https://www.pinknews.co.uk/2018/03/15/anti-trans-activists-hit-out-at-parasitic-trans-people-at-event-in-parliament/>

¹⁶ <https://www.independent.co.uk/news/uk/politics/labour-gender-male-activist-suspend-feel-woman-david-lewis-basingstoke-a8364706.html>

The “gender critical” movement continued to make waves in the Labour Party in early 2018 and in May 2018 a group of 300 women Labour members, “MayDay4Women” expressed their intolerance of trans women being included in All Women’s Shortlists by threatening to resign from the Labour party¹⁷. It is not known for certain if this threat was carried out in full. In response to the controversy and the suggestion that the Party could be swayed by the intense pressure exerted from intolerant Labour members, the National Executive Committee made a formal statement confirming the Party’s trans inclusive position (see note 7 above).

Welsh Labour have adopted a very pro-trans stance. Vaughan Gething, the Welsh Government minister for Health and Social Care made a ground-breaking move to start a gender identity service in Wales¹⁸. This plan was met with wide approval and relief in the trans community of Wales. However, at the time of writing, one year after the announcement, there have been delays and unexplained barriers in getting even the basic interim measures put in place. Many trans people have even been set back in receiving treatment as health care providers delay or deny treatment citing the absence of the planned service as the reason. The Wales Equality Alliance continues to lobby hard and exert pressure on Welsh Government to ensure the service arrangements are not canned.

In April 2018, Welsh Labour awarded Lisa Power, co-founder of Stonewall and key ally of the trans community, with the inaugural LGBT rights award in memory of trans activist Lily Summers¹⁹. This affirmed Welsh Labour’s pro trans position after the controversy with All Women’s Shortlists and the activity of rogue Welsh Labour Councillors involved in spreading hate speech online and openly collaborating with anti-trans organisations.

Liberal Democrats

The Liberal Democrats have not suffered the divisions experienced within the Labour Party on the issue of trans inclusion. In 2014, the Party made clear its stance on GRA reform via the “Trans Manifesto”²⁰ which supported many of the recommendations that were subsequently made in the 2016 House of Commons Women and Equalities Committee report. At the autumn conference in 2015, the Party overwhelmingly passed a motion that made action on trans and intersex healthcare official party policy. It also called for an independent inquiry

¹⁷ <https://www.pinknews.co.uk/2018/05/02/300-women-quit-the-labour-party-because-self-identifying-trans-women-are-being-included/>

¹⁸ <https://gov.wales/newsroom/health-and-social-services/2017/genderwales/?lang=en>

¹⁹ <https://www.pinknews.co.uk/2018/04/23/labour-presents-inaugural-lgbt-rights-award-in-memory-of-trans-activist/>

²⁰ <https://lgbt.libdems.org.uk/en/page/trans-manifesto>

into “widespread and systemic abuse of transgender people within the health service”²¹. In June 2018, Baroness Sal Brinton, President of the Liberal Democrats, wrote to affirm the Lib Dem position on trans rights and hit out against opponents of trans equality and the “vicious tone and nature of allegations from these people [that is] reminiscent of the homophobia that was commonplace forty years ago – assuming all gay men were paedophiles, or that they could be ‘cured’ by therapy or were just a malevolent curse on society”²².

Plaid Cymru

Leanne Wood, the leader of Plaid Cymru, made a clear and unequivocal statement in support of advancing the trans rights and against transphobia in an article on inclusive feminism published on her web site in March 2018²³. Based on her experience as a support worker for Welsh Women’s Aid, she makes it clear that the real challenge to the safety of women in women’s refuges are not trans women but cuts to services. The article also debunks the anti-trans “radical feminist” position that GRA reform poses a risk to women by pointing out that the informed decision making in risk assessment based on provisions in the Equality Act are already sufficient for protecting service users and this will not change with GRA reform. Leanne Wood eloquently writes:

“Trans women are not the enemy. The enemy is cuts to funding which has seen domestic violence shelters and support services close across the UK. The enemy is a backlash to women’s progress which has seen misogyny promoted by some of the most powerful men in the world. The enemy is narrow gender norms which limit our children’s expectations and lead to bullying and abuse of anyone who’s seen as different.

I want to see an inclusive feminism which brings women together rather than dividing us. A feminism that recognises our shared challenges while valuing our differences. A feminism that understands that gender is a complex and deeply personal thing and is about so much more than outdated ideas of biology. As a working-class woman, it’s important to me too that feminism recognises that some women face multiple oppressions due to their class, race, disability or gender identity and that all of these need to be tackled.”

In May 2018, Plaid Cymru member, Adam Price AM, wrote to mark the 30th anniversary of the enactment of the notorious Section 28²⁴. He referred to the rise in transphobia and the “smear campaigns directed towards the trans community in the media”. He affirmed the Plaid Cymru position of trans equality by being “proud to stand alongside our Plaid Cymru

²¹ <https://lgbt.libdems.org.uk/en/article/2015/1113120/libdems-pass-groundbreaking-trans-and-intersex-health-charter>

²² <https://www.libdemvoice.org/liberal-democrats-are-very-clear-about-the-rights-of-transgender-people-57853.html>

²³ https://www.leannerhondda.wales/inclusive_feminism

²⁴ <https://nation.cymru/opinion/wales-wont-be-free-until-our-lgbt-citizens-are-also-free/>

leader, Leanne Wood, in supporting a reformed, simpler and streamlined Gender Recognition Act.”

UKIP

The views expressed by UKIP members have largely been hostile towards the advances in trans equality brought by reform of the GRA. There is no clear official party statement, although typing in “UKIP Gender Recognition Act” returns a blog posts by a UKIP member on ukipdaily.com which amounts to nothing more than a twisting of a Monty Python scene followed by an unfettered transphobic rant. UKIP AM Gareth Bennett was sanctioned by the Welsh Assembly for transphobic hate speech in December 2017. On the subject of GRA reform, Bennett was reported to have said among other things: "If we carry on down this road of appeasing the nuttiest elements of the transgender movement, then what we will face as a society, within a very short space of time, is total implosion."²⁵

Bennett was called upon to withdraw the remarks. He refused and left the chamber. His remarks were met with wide condemnation, although in a Pythonesque turn, Neil Hamilton intervened in Bennett’s defence by saying to the media that "UKIP is a minority whose rights need to be protected as well". For some reason the UKIP leader was suggesting that bigotry is to be considered a protected characteristic. Some days later, Bennet later made some comments that resembled some form of apology (although that was disputed by some due to the conditional language used) and was permitted to re-enter the chamber.

The Unions

Historically, trade unions in the UK have played a crucial role in advancing equality. The positions and policies of the major unions are largely in favour of advancing trans equality based on the recommendations of the 2016 parliamentary select committee report.

Unite, the largest UK union with over 1.4 million members are "raising awareness and campaigning for LGBT equality, and encourage LGBT workers to join and become active"²⁶. Specifically, with regard to advancing trans equality, the Unite Executive Council statement on Gender Identity published in 2018 states that:

"Unite believes that any worker has the right to determine their gender identity without unnecessary medicalisation and supports the review of the process of applying for gender recognition process / certificate" (<http://www.unitetheunion.org/campaigning/events/fifth->

²⁵ <https://www.bbc.co.uk/news/uk-wales-politics-42343250>

²⁶²⁶ <http://www.unitetheunion.org/unite-at-work/equalities/equalitiessectors/lesbiangaybisexualandtrans/>

[unite-policy-conference-2018/upc2018--ec-statement-on-gender-identity/](https://www.unison.org.uk/news/2017/11/trans-equality-policy/)).

Unison, the second largest UK union with 1.3 million members, launched their model trans equality policy in November 2017 to coincide with Trans Day of Remembrance(<https://www.unison.org.uk/news/2017/11/trans-equality-policy/>). The resources provided alongside the model policy include a briefing pack on GRA reform with a draft constituency Labour Party motion containing text in support of the key principle of "self-declaration" with the position defined as follows²⁷:

"A 'self-declaration' procedure to update a trans person's legal gender:

- Would be administrative in nature, not involving a court or tribunal decision
- Would require a trans person to make a statutory declaration that they are living permanently in their gender identity
- Would not require a psychiatric report or any other medical evidence
- Would not require a trans person to prove they have already lived a long time in their gender identity.
- Deliberately making a false statutory declaration is a serious crime punishable by imprisonment."

This aligns with the Wales Equality Alliance position and the reader is also urged to sign the petition with this stated position as the response to the GRA Consultation (see section above - [A New Hope – Proposed reforms to the Gender Recognition Act 2004](#))

The GMB union are aligned in favour of advancing trans equality. The National policy guide specifies that the union must hold an event on Transgender Day of Remembrance to "honour those who have lost their lives as a result of discrimination"²⁸. The union also campaigns to improve the working conditions of non-binary workers. The GMB's transgender equality tool kit is a useful resource available for download from the GMB website²⁹

The PCS union is aligned with the other unions mentioned above regarding its commitment to advance trans equality. At the PCS conference in 2017, members voted for a motion that "committed PCS to campaign for the full implementation of the recommendations in a government 'Transgender Report' published in 2016" and therefore in support of the principle of "self-declaration"³⁰.

The image of the unions as the bastions of trans equality was shattered on 4th July 2018

²⁷ <https://www.unison.org.uk/about/what-we-do/fairness-equality/lgbt/>

²⁸ <http://www.gmb.org.uk/2018-GMB-NATIONAL-POLICY-GUIDE.pdf>

²⁹ <http://www.gmbfifepublicservices.org.uk/wp-content/uploads/GMB-Transgender-Equality-Toolkit-Version-81.pdf>

³⁰ <https://www.pcs.org.uk/news/full-equality-for-trans-people-gets-conference-backing>

when a letter published in the Morning Star detailed three separate unrelated incidents where supporters or organisers of “gender critical”, anti-trans campaign³¹s had been threatened or assaulted. Although the perpetrator of one of the incidents was not trans and had no connection with pro trans groups, the three incidents were used as sufficient evidence to denounce trans activists for “systematic attempts to shut down meetings organised by women at which they can discuss potential legislative changes and the impact these may have on any sex-based rights already enshrined in law.” It claimed they “...draw the whole of our progressive movement into disrepute. Some trans rights activists even continue to justify the use of violence...”. No mention was made in the letter of the abuse and attacks on trans people from supporters of anti-trans campaigns and no mention was made of the need to advance trans equality although the gender critical interest for “sex-based rights” was.

The Morning Star letter would have been dismissed as another item of grossly biased anti-trans propaganda had it not been for the inclusion of signatures from Len McCluskey, General secretary of the Unite union and Mark Serwotka, General Secretary of the PCS union. Serwotka’s spouse, Ruth Serwotka, was another signatory and a leading figure in the anti-trans campaigning organisation “A Woman’s Place UK”.

The letter was met with widespread condemnation from members in all unions. On the day of the letter’s publication, the official Twitter account for the GMB union, @GMB_union, published the following tweet in response to the Morning Star letter:

"Trans rights are human rights - that is not a matter of debate. @GMB_Union will seek protection for ALL via the Gender Recognition Act. We condemn transphobia in the strongest terms."

Some members of Unite and PCS were moved to renounce their membership in favour of the GMB and other unions. PCS Proud, a member’s group, wrote an open letter expressing concern about Mark Serwotka’s actions citing the anger and upset caused to members. It set the record straight on the union’s position by detailing the motion overwhelmingly carried in support of GRA reform. It also highlighted “inappropriate behaviours towards transgender individuals and cisgender allies”³² from some of the signatories.

At the time of writing the controversy surrounding the letter continues. The Wales Equality Alliance is following the matter closely. The author spoke with Mark Serwotka who, although stopping short of withdrawing support for the Morning Star letter, assured the author of his commitment to the PCS union’s mission on trans equality.

³¹ <https://morningstaronline.co.uk/article/improving-climate-debate-around-proposed-changes-gender-recognition-act>

³² <http://pcsproud.org.uk/open-letter-to-pcs-general-secretary-mark-serwotka/>

Responses to the launch of the GRA Consultation

The public consultation on the reform of the Gender Recognition Act launched on 4th July 2018. The scene was set with the BBC platforming a spokesperson from the anti-trans group "Man Friday" who repeated the scare mongering drummed out by Woman's Place UK, that GRA reform would make women's spaces such as toilets, changing rooms and refuge centres and women's prisons unsafe. Nick Robinson went along with this referring to a "woman with a penis" and how we "don't want such a person" swimming with women and going into women's refuges. He asked how such a person can be stopped. The Equality Act was conflated with the Gender Recognition Act and the claim that Stonewall were actively lobbying against women's rights was not challenged. Later that day, BBC Woman's hour covered the LGBT action plan that was also announced by the Women's and Equalities minister. The presenter took it as given that trans women are to be excluded and asked, "If you're a gay woman living in the UK now, honestly, what could the government do to improve the quality of your life?".

On trans women, the presenter stated, "there is a real concern on the part of some feminist groups and women generally that the rights of women, which have been hard won, lest we forget, women are now being expected to - once again - to move over for the rights of people who identify as women" (transcript of the broadcast made by the author, Jenny Marie Charles). Meanwhile, the high profile anti trans group behind the Morning Star letter, A Woman's Place UK, began urging the public to respond to the consultation to oppose reform based on the scare mongering about trans women.

The Labour party were silent as Brexit chaos reigned and the main stream were openly supporting the "radical feminist" narrative. Things were looking depressing for trans people as they heard a loud and victorious cheer as anti-trans activists hijacked Pride in London and marched the entire route of the parade - at the very front - displaying anti-trans slogans³³. What seemed like a small ask for the trans community was met with country-wide hysterical rage against our smallest and most marginalised minority to the bafflement of onlookers abroad.

Amidst this, Leanne Wood of Plaid Cymru, working class feminist from the Valleys, stepped in to lead support for trans people in the Welsh Assembly and tabled a Statement of Opinion³⁴. This reads as follows:

This Assembly:

³³ <https://www.pinknews.co.uk/2018/07/07/anti-trans-group-allowed-to-lead-pride-in-london-march-after-hijack/>

³⁴ <http://record.assembly.wales/StatementOfOpinion/102>

- 1) Notes the current UK Government consultation on reform of the Gender Recognition Act.
- 2) Recognises that the current system for obtaining a gender recognition certificate is complex, costly and demeaning.
- 3) Regrets the scaremongering and transphobia around gender recognition reform from sections of the media and those opposed to trans equality.
- 4) Supports reform of the Gender Recognition Act, in line with good practice in other countries such as Ireland and Norway.
- 5) Recognises that trans people in Wales experience significant inequality and discrimination and believes that all trans people have the right to dignity, equality and respect.

The road to equality for trans people has been and continues to be a very rocky one and although there is great appetite for GRA reform, there are powerful forces at play working to block it. The gender critical anti-trans movement has support from the alt right that shares the same transphobic views. Together they stand in the way. If they succeed in blocking the advance of trans equality, will the alt right leave it at that?

We all hope that common sense and decency will prevail, and the government will proceed to reform the Gender Recognition Act. You can do your bit by completing the consultation³⁵. We can then all get on with our lives.

³⁵ <https://www.gov.uk/government/consultations/reform-of-the-gender-recognition-act-2004>

Safety First – Women Only Services and Trans Inclusion

The Equality Act 2010 was a significant leap forward in the advance of trans equality. Following this, the UK Government published its transgender equality action plan in 2011³⁶. This detailed how organisations should roll out changes so the new rights enshrined in law would be protected when trans people use public services, work as employees or receive an education.

One of the key aspects of the Equality Act implementation is that trans people are permitted to use gender specific services appropriate to their re-assigned gender. A trans person's privacy is also protected. A trans person going through the process of gender re-assignment can safely use gender specific facilities without fear of being challenged or required to provide evidence by way of presenting a Gender Recognition certificate. Therefore, a trans woman is to be permitted to use female toilet facilities at work, in restaurants and other public places without fear of being harassed. Likewise, a trans woman can access other women only spaces. This includes women's refuge centres and training services for women.

Anti-trans campaigns that oppose GRA reform do so mainly based on the fear that removing the requirement of a Gender Recognition Certificate to complete legal transition will open up women's spaces to violent men. Women's refuges, they say, will no longer be safe spaces as any man intent on attacking women could abuse the new system to get into women's spaces and do harm by pretending to be a woman. The reality is that trans women - prior to gaining a Gender Recognition Certificate - already can access women's refuges and use women only services based on the Equality Act 2010. The act allows for case by case risk assessments to override these rights if they affect the safeguarding of service users. The GRA will not change the Equality Act.

Welsh Women's Aid is a charity that provides services and support to women who are victims of domestic abuse and violence against women. Their transgender inclusion statement made in April 2018³⁷ clarified the situation about trans service users. Referencing their previously issued transgender policy³⁸, the organisation promotes an intersectional approach and "...commits to supporting the realisation of rights for trans people, and the delivery of trans inclusive services and support, based on self- identification". Trans women are equally victims

³⁶

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/85498/transgender-action-plan.pdf

³⁷ <http://www.welshwomensaid.org.uk/2018/04/transgender-inclusion-statement/>

³⁸ <http://www.welshwomensaid.org.uk/wp-content/uploads/2018/04/WWA-Transgender-Policy-and-Procedural-Guidance-INTERNAL.pdf>

of domestic abuse and violence in the same way as other women. On this basis the organisation states that:

"Specialist services in Wales receive policy guidance, training and support to ensure trans people who have experienced abuse are supported to access services that best meet their needs. This means that anyone identifying as needing women-only or men-only support services (e.g. refuges) or as needing any form of support and advocacy in the community, should be offered a service that meets their need for support to access safety and to recover from abuse...."

In other situations, trans women are also explicitly included in access to women's only services. Chwarae Teg, the organisation supporting the economic development of women in Wales is clear about its inclusion of trans women. When the Government announced the start of the GRA consultation, Chwarae Teg along with WEN Wales, Welsh Women's Aid and Women Connect First issued a joint statement containing the following³⁹ :

"We support trans women: our organisations and our work are fully inclusive of trans women. In our recent joint Manifesto for Equality for Women and Girls, we called for greater recognition of the multiple forms of discrimination and abuse experienced by trans women as women. Women-only spaces should be open to all women, including trans women, and women's safety, including trans women's safety, within the criminal justice system, in services and in the community must be prioritised."

The situation is very clear. Trans women are already included in women only service provision based on self-identification. Further, the GRA reform does not affect the implementation of the Equality Act 2010. Therefore, it makes no sense to oppose GRA reform on the basis that trans women should not be included in women only service provision. Arguments against GRA reform based on the safety of women's spaces are easily shot down and the bigotry and intolerance of gender critical anti-trans campaigners that push them are easy to see. It is hate motivated scare mongering.

³⁹ <https://www.cteg.org.uk/chwarae-tegs-statement-reforms-gender-recognition-act-2004/>