



Legal recognition for transgender children

Background: The government has launched a consultation on proposed reforms to the [2004 Gender Recognition Act \(GRA\)](#). The current legislation allows transgender adults (under certain circumstances) to change their birth certificate to accurately reflect their gender identity.

Transgender children: The 2004 GRA denies trans children any route to legal gender recognition (trans children are unable to apply for an updated birth certificate until they reach the age of 18). This has had a significant negative impact on trans children (see page 2). The GRA consultation provides space for feedback on the impact of the current GRA on children under Question 11: *“Is there anything you want to tell us about how the current process of applying for a GRC affects those who have a protected characteristic?”* (Trans children have the protected characteristic of age).

Children without a voice: The government [conducted a survey of LGBT adults](#) to gather information ahead of the review of the GRA. This survey [explicitly excluded any responses from trans children](#) or their families. The GRA consultation has not considered the needs of trans children or the impact of denying their legal recognition. However the consultation provides an opportunity to speak up for trans children.

Who can help: The consultation is public and it is vital that everyone who knows and cares about the welfare of trans children responds to give them a voice. This includes parents, grandparents, wider family members and friends of trans children, and also their teachers, teaching assistants, head teachers, GPs, social workers, school nurses, communities of faith, sports teachers, Guiding and Scouts leaders.

What should we say? That trans children matter - that their needs and rights need to be considered as the government considers reforms to the GRA. If you know a specific trans child, please say this (without disclosing confidential information). Share something (anonymous) about that child, about your relationship to that child, and emphasise that the government consultation should not ignore their needs and rights.

For example: “I am a primary school teacher who has taught a socially transitioned 9 year old trans boy. He likes French and reading. His needs and rights should be considered in the reform to the GRA.”

Can we say more? You could talk about what legal recognition would mean to the trans children you know. You could mention some of the negative impacts age-based denial of legal recognition has on trans children. (See the next page for further information on impact).

How do we support trans children when completing the consultation?

- Anyone can fill in the consultation through this link: <https://consult.education.gov.uk/government-equalities-office/reform-of-the-gender-recognition-act/consultation/intro/>
- Under **Question 11** state your support for trans children, and if you know a specific trans child, share something (anonymous) about them, and mention in what capacity you know them (eg. as their secondary school form teacher, GP, grandparent)
- In your own words state that trans children’s needs and rights should be considered in the consultation. You could also mention some of the negative impacts denial of legal recognition has on trans children (your response can also be repeated under **Question 22** (*Do you have any further comments about the Gender Recognition Act 2004*))
- You may wish to respond to other questions in the consultation. Several organisations have issued guidance including [Stonewall](#) and [Mermaids](#).

GRA 2004: Impact on transgender children

Discrepancy in legal recognition: Trans children (under 18s) cannot currently apply for a Gender Recognition Certificate and cannot update their Birth Certificate. This creates a legal inconsistency. Trans children already have legal right to recognition within the 2010 Equality Act, they can change their legal name via a Deed Poll or Statutory Declaration (with parental consent if under 16), and they can change their gender marker on all other forms of ID including passport, school record, NHS record, without any age based restrictions.

Infringement of human rights European and International Law: Restricting gender recognition to over 18s goes against international laws including the UN Convention on the Rights of the Child (Art 3.1), the Yogyakarta Principles, the European Convention on Human Rights, case law of the European Court of Human Rights and the EU Fundamental Rights Charter (Art. 21). Human rights apply to children including a right to a life of dignity and autonomy, right to privacy and the right to be heard and to play an active role in all administrative and judicial procedures. Trans children's Right to Private and Family Life is guaranteed by the European Convention on Human Rights (ECHR) Article 8. A lack of legal recognition breaches these rights and enforces differences between a child's birth certificate and their other Identity documents.

Other countries already recognise the rights of trans children. In 2015, Norway provided full legal recognition for trans children aged 6+ (with parental consent if under 16).

Lack of legal recognition is intimidating, humiliating and stigmatising. Forcing trans children to have documentation that does not match their identity causes harm. It is disempowering and humiliating. Denying trans children any route to updating their birth certificate gives them the message that they are not valid, that there is something wrong with them, that who they are is not acceptable. Some children have changed all their other ID, including their passport, by the age of 5 years old – yet are denied full legal recognition for a further 13 years.

Lack of legal recognition is harmful: The recent [National LGBT survey](#) revealed widespread transphobia in the UK. In a potentially hostile environment, trans children learn to hide information about their birth assigned sex. Denying trans children the possibility of updating their birth certificate to match their other documentation, puts them at risk of involuntary disclosure. Such disclosure puts this vulnerable group of children at risk of discrimination, exclusion and violence.

It removes rights and dignity. If a 17 year old trans girl wants to marry, she is categorised as a husband. This would deter a trans girl aged 16 or 17 from entering any kind of legal relationship, whether marriage, same-sex marriage or civil partnership, because it would only be possible to do this in line with the original birth certificate. Trans 18 year olds risk being disenfranchised of the opportunity to vote, if an election occurs before they have been able to update their identification. Even in death, lack of an updated birth certificate risks the wrong gender being recorded on a death certificate.

It excludes trans children from meaningful participation in social and economic life. Any situation where a birth certificate is required can cause great anxiety and stress for trans children. With few other sources of ID, children often need to use their birth certificate (for example two sources of ID are required when applying for a job, birth certificates are required when registering for some schools, ID is required to open a bank account). To avoid showing an incorrect birth certificate (and to keep themselves safe), trans children may avoid situations where ID is required. They may avoid applying for an apprenticeship, part-time employment, full time employment, work-experience, school, college, university, or even opening a bank account. Prejudice, and fear of prejudice, forces trans children to delay active participation in society until after the age of 18 when their ID can finally be consistent. This delay can lead to long-term disadvantage - trans children are left waiting whilst their cis friends pass milestones in education and employment – a disadvantage that negatively impacts trans children's lives well into adulthood.