

Nursing and Midwifery Council response to the Women and Equalities Committee's inquiry into Reform of the Gender Recognition Act

About Us

Our vision is safe, effective and kind nursing and midwifery that improves everyone's health and wellbeing. As the professional regulator of more than 700,000 nursing and midwifery professionals, we have an important role to play in making this a reality.

Our core role is to **regulate**. First, we promote high professional standards for nurses and midwives across the UK, and nursing associates in England. Second, we maintain the register of professionals eligible to practise. Third, we investigate concerns about nurses, midwives and nursing associates – something that affects less than one percent of professionals each year. We believe in giving professionals the chance to address concerns, but we'll always take action when needed.

To regulate well, we **support** our professions and the public. We create resources and guidance that are useful throughout people's careers, helping them to deliver our standards in practice and address new challenges. We also support people involved in our investigations, and we're increasing our visibility so people feel engaged and empowered to shape our work.

Regulating and supporting our professions allows us to **influence** health and social care. We share intelligence from our regulatory activities and work with our partners to support workforce planning and sector-wide decision making. We use our voice to speak up for a healthy and inclusive working environment for our professions.

Overview

Thank you for the opportunity to respond to the Committee's inquiry into the Government's response on how best to reform the Gender Recognition Act (GRA) 2004. It has been over two years since we responded¹ to the Government's consultation in October 2018, and we're pleased to be able to clarify our position and share the insight we've gained since then. We also responded² to the Scottish Government's consultation on GRA reform in March 2019.

We are grateful to be able to share the data, insight and learning which informs our position on potential GRA reform. We remain supportive of steps being taken to reduce the difficulties faced by trans and non-binary people when applying for legal recognition.

We welcome steps to make the process for people to obtain legal recognition of their gender simpler and more inclusive. This will enable us to regulate effectively, protect people's privacy and dignity when carrying out our checks, and is in line with our work tackling health inequalities and supporting the wellbeing of the nursing and midwifery professionals on our register.

¹ [Response to the Government Equality Office's consultation on reform of the Gender Recognition Act 2004](#), Nursing and Midwifery Council, October 2018

² [Response to the Scottish Government's consultation on its draft Gender Recognition Reform Bill](#), Nursing and Midwifery Council, March 2019

Kinder processes and care

We recognise the Government's aim to make the process of obtaining a Gender Recognition Certificate (GRC) 'kinder and more straightforward'. One of our four organisational values is kindness – we value people, their insights, situations and experiences. In that light, we reiterate our previous position that we support inclusion, respect, kindness and compassion for all people, including those whose gender identity does not match the sex they were assigned at birth.

The analysis of consultation responses published alongside the Government's response in September 2020 stated that, 'trans respondents overwhelmingly reported that the current GRA process was too bureaucratic, time consuming and expensive, highlighting in particular that the process made them feel dehumanised and stressed'³. We welcome plans to make the process of obtaining a GRC easier and less bureaucratic, including proposals from the Government to move the process online. We are also in favour of proposals to make the GRC application process more financially accessible and recognise the positive impact this may have on groups from different socioeconomic backgrounds.

We are particularly pleased to see plans to arrange further provision for tailored health care to be delivered through additional gender clinics. One of our equality, diversity and inclusion ([EDI](#)) priorities is to support the reduction of health inequalities, and we've been concerned about reports of the significant systemic barriers facing trans and non-binary people waiting to receive specialised health care from gender clinics.

Everyone deserves competent, compassionate and person-centred care. Unfortunately, the issues facing trans and non-binary people when accessing healthcare were well documented before the Covid-19 pandemic, and may now be further entrenched or worsened. Earlier this year the LGBT Foundation reported that gender identity services had 'suspended all their services, with many people unable to even speak with a clinician on the phone or online. This is particularly distressing for many, as people wait on average of a year and a half for an appointment with a gender identity service'.⁴

The Foundation's survey of LGBT people revealed that, 'many trans people feel that their healthcare is being viewed as 'non-essential', with 40% of trans people having experienced at least one negative experience based on their identity when accessing or trying to access public healthcare services in the 12 months preceding the survey. We therefore welcome all work aimed at tackling these disparities and concerns, including the proposed increased provision of specialist gender health services.

Our position on reform proposals

In our previous response to the UK Government's consultation in 2018 we shared our perspective on how certain aspects of the GRA reform proposed by that consultation could enable us to be more effective as a regulator. In particular, we explained that a

³ [Reform of the Gender Recognition Act: Analysis of Consultation Responses](#), September 2020

⁴ [Hidden Figures: The Impact of The Covid-19 Pandemic on LGBT Communities in the UK](#), LGBT Foundation, May 2020

reduction in time of the current requirement for people to live in their ‘acquired’⁵ gender for two years could enable us to carry out our identity checks more efficiently.

Our position remains that any reform which means that official documentation more often matches someone’s gender identity is helpful for us as a regulator, and could reduce the likelihood of inadvertent disclosure to third parties as part of our identification processes. It may also reduce the time required for us to carry out identity checks and obtain documentation, allowing us to process registration applications and admit professionals to the register more quickly. We note that nearly 79% of respondents to the Government’s consultation were in favour of removing the requirement for people to evidence having lived in their ‘acquired’ gender for a period of time.

In our response to the Scottish Government’s consultation on GRA reform in 2019 we covered a broader range of GRA reform proposals, including recognising the benefits of de-medicalising the process of applying for legal recognition by removing the need to have medical evidence of gender dysphoria. The UK Government’s analysis of responses to their consultation detailed that some people found this requirement dehumanising and stressful, while intersex people, or people with variations in their sex characteristics (VSC), felt this was inappropriate for those who have had their sex incorrectly assigned at birth, as the need for a diagnosis of gender dysphoria may prevent people from fulfilling the necessary requirements for a GRC.

Our previous response welcomed any plans to recognise and include non-binary people in reform proposals. This is in line with the majority (65%) of respondents to the Government consultation who thought that changes needed to be made to the GRA to accommodate individuals who identify as non-binary, who are currently unable to apply for a GRC in their correct gender.

We also reflected on the potential positives to be gained by allowing people to apply for a GRC at an earlier age, explaining we welcomed any reform which resulted in less disruption for students on our approved courses, and a higher likelihood that graduates joining our register would have the right documentation in place.

In both our consultation responses we explained that we would support consistency in the approaches to legal gender recognition across the four countries of the UK, in line with our own whole-nation geographical span. We understand work on GRA reform from the Scottish Government will be postponed until May 2021 in order to focus efforts on tackling the pandemic, however there remains the potential for a national divide on GRA reform.

Understanding people’s experiences

While our perspective on potential GRA reform is informed by our regulatory processes and systems, we are cognisant of, and committed to championing, the needs of the professionals on our register. We collect the anonymous diversity data of the nurses, midwives and nursing associates that we regulate and use this to gain insight on people’s experiences.

⁵ We use ‘affirmed’ at the NMC as an inclusive term, but have used ‘acquired’ in this context in response to the Government’s use of the legal term

Our latest data as of 31 March 2020⁶ shows that the number of nurses, midwives and nursing associates on our register whose gender identity does not match the sex they were assigned at birth (or within six weeks) was 4,484, equating to 0.6% of our total register. This is an increase from 3,789 on 31 March 2018, when we started recording this data. The actual number may be higher, as information for 6.1% of people is unknown or they preferred not to say. Nursing associates and professionals registered as both a nurse and midwife have the highest proportion of non-binary people, at around 0.7%, compared to midwives for example, at around 0.4%.

We're committed to supporting the health and wellbeing of nursing and midwifery professionals, as outlined in our EDI priorities, and we seek to understand and speak out about wellbeing issues facing these professionals. We therefore support any GRA reform which would improve the experiences and protect the dignity of the trans and non-binary professionals on our register.

The Government's consultation analysis showed that trans people felt that access to a GRC facilitates core rights and benefits for trans people including social and legal validation, being able to get married in the correct legal gender, having more security against being 'outed' without consent, and being able to get a death certificate issued in the correct gender. We believe that the voices and views of trans people should be central in decisions relating to their lives.

Our understanding of the experiences of the trans professionals on our register has developed since our earlier consultation responses. We recently published our latest EDI research report, *Ambitious for Change*, which explores the impact that people's protected characteristics play in any differential outcomes or experiences when interacting with our processes. While the numbers in this category is low and should be interpreted with caution, our data⁷ suggests that trans nurses, midwives and nursing associates are more likely to be referred to us to assess their fitness to practice. The next stage of our work will involve us digging deeper to understand why these differences exist, which will inform what action we then take.

We also found research showing that healthcare students who are trans or non-binary report high levels of discrimination, such as derogatory comments and barriers accessing work experience and placements in particular clinical areas. As health and care workers, trans professionals experience high levels of discrimination, which can mean they are reluctant to disclose their identities, creating feelings of discomfort, stress and anxiety. There is no room for discrimination in the health and social care sector, and we will always work alongside partners and organisations to root this out where we have evidence it is occurring. Work and learning environments should be safe and healthy for all health and care professionals.

Thank you again for the opportunity to respond, and we look forward to seeing the outcome of your inquiry.

⁶ [Equality, diversity and inclusion data tables 2019-2020](#), Nursing and Midwifery Council

⁷ [Ambitious for Change: Research into NMC processes and people's protected characteristics](#), Nursing and Midwifery Council, October 2020