

Cross-Party Group on LGBTI+ issues

Annual General Meeting

Minute of Wednesday 27 September 2017 AGM

Venue: Scottish Parliament, Committee Room 4

1. Welcome and apologies

Present:

Jamie Greene MSP	(Co-Convener, chairing)
Patrick Harvie MSP	(Co-Convener)
Kezia Dugdale MSP	(Co-Convener)
Liam Stevenson	TIE Campaign
Jordan Daly	TIE Campaign
Sophie Bridger	Stonewall Scotland
Stuart Duffy	Pink Saltire
Alistair Rose	SX and Waverley Care
Tim Hopkins	Equality Network
Hannah Pearson	Equality Network
James Morton	Scottish Trans Alliance
Becky Kaufmann	Scottish Trans Alliance
Andrew Marshall	LEAP Sports Scotland
Christina Grant	Dumfries and Galloway LGBT Plus
Johnathon Gallagher	Dumfries and Galloway LGBT Plus
Susan Ross	Police Scotland
Aaron Slater	Fearless (Sacro)
Joe McGurk	Individual

Apologies:

Ben Macpherson MSP
Annie Wells MSP
Rona Mackay MSP
LGBT Health and Wellbeing

The meeting was chaired by Jamie Greene MSP.

2. Introductions and new members

It was agreed to accept the requests of (i) Four Pillars, an LGBT charity in Aberdeen, (ii) Fiona Grounds from Scotland Against Intersex Surgery, (iii) *respectme*, Scotland's anti-bullying service, and (iv) James Banner-Rall, LGBT Officer for Greenock & Inverclyde CLP, to join the group. The group secretary will add them to the mailing list and notify the Standards Committee team.

3. AGM business – appointment of office bearers; note of financial benefits

It was agreed that the current co-convenors – Jamie Greene MSP, Kezia Dugdale MSP, Patrick Harvie MSP and Ben Macpherson MSP – would be reappointed.

It was agreed that the current group secretariat – Equality Network – would be reappointed.

Financial benefits: The Equality Network reported that the estimated total cost to them of the secretarial support for the Group for the past 12 months was £750. The cost was expected to be less this coming year, because there is no start-up work required.

4. Minute of the last meeting (28th June 2017)

The group approved the minute.

5. Matters arising from the last minute

TIE to resend letter template for MSPs to use when contacting their local authorities regarding LGBTI inclusion in schools.

Stonewall Scotland confirmed that their director has met with the new director of See Me to discuss LGBTI mental health issues.

Equality Network noted that they and LGBT Youth are still working together to collate the existing body of research on LGBTI mental health.

Equality Network confirmed that the meeting arranged by LGBT Youth with Maureen Watt, Minister for Mental Health, is to go ahead.

6. Trans equality – forthcoming gender recognition consultation led by Scottish Trans Alliance (STA)

The STA reported that the Scottish Government's consultation on gender recognition is expected to be launched around the end of October. They provided the group with

a summary of their Equal Recognition campaign to reform the current Gender Recognition Act 2004.

Although the Gender Recognition Act was flawed, it marked a significant step forward for the rights of trans people in 2004. The gender recognition process introduced by the Gender Recognition Act 2004, enabled trans people to change the gender on their birth certificate. The gender on a person's birth certificate is their legal gender. Decisions are made by a tribunal panel and are completely separate from decisions about gender reassignment. However, over the last decade, there has been substantial international progress on trans rights and the Gender Recognition Act is now outmoded and urgently in need of reform.

The Equal Recognition campaign has three asks of the Scottish Government:

1. Remove the psychiatric diagnosis requirement from legal gender recognition

In order to change the gender on their birth certificate, the Gender Recognition Act 2004 requires a person to submit a highly detailed psychiatric report confirming they have been diagnosed with gender dysphoria, how that diagnosis was determined and any treatment they have received. This intrusive and humiliating requirement violates trans people's right to privacy and self-determination and adds to the stigma that they already face.

The Equal Recognition campaign is calling for the Scottish Government to introduce new legislation which implements a straightforward administrative gender recognition process that is in line with international human rights standards and reflects European best practice. Ireland for example, already has self-declaration. The psychiatric diagnosis requirement should be scrapped in favour of a self-declaration process which respects the autonomy of the individual applying.

2. Reduce the age at which people can get legal recognition of the gender they live as

Young people under 18 years old are currently prevented from accessing legal gender recognition. Increasing numbers of young people are transitioning, with the full support of their parents, to live as the gender they identify as. Although they can satisfy all of the other conditions required to change the gender on their birth certificate, young people are denied this human right purely because of their age. This places them at risk of significant discrimination and violations of their privacy in education and employment due to the sex on their birth certificate not reflecting the gender they live as. Furthermore, they can change the gender on other documentation, such as their passport and school documents, but not their birth certificate.

The Equal Recognition campaign is calling for the Scottish Government to introduce new legislation which enables people to apply for gender recognition from 16, the age at which young people in Scotland are deemed to have full legal capacity. Children under 16 should also be able to access gender recognition with just the additional requirement that a parent or legal guardian provides their consent. Young people who transition already need a great deal of support from their parent(s) or

legal guardians who have to make decisions based on what is best for their child, this would be another such decision.

3. Provide legal recognition for people who do not identify as men or women

Unlike other trans people, non-binary people currently have no legal recognition of their gender at all. People who have a non-binary identity don't identify as solely either men or women, they strongly identify as either having a gender which is in-between or beyond those two categories or as having no gender. Non-binary people often use gender-neutral pronouns and titles such as they/them and Mx. It should be noted that having a non-binary gender identity is different from being born with an intersex body.

Every time they use health services, apply for a job, go to college, or interact with the state in any way, non-binary people are told that their existence is not valid; they must fit in to one of two categories, both of which undermine how they actually live and identify. Scotland is falling behind the growing number of countries which recognise that some people do not identify as men or women and provide them with a gender-neutral option for legal documents, such as birth certificates and passports, to respect their non-binary gender. Currently Australia, New Zealand, India, Nepal, Pakistan, Argentina, Denmark and Malta, all allow gender-neutral birth certificates, passports, or other official documentation.

The Equal Recognition campaign is calling for the Scottish Government to introduce new legislation which reflects the fact that some people do not identify as men or women and allow people to choose to amend their birth certificates to be gender neutral.

The STA is anticipating that the Scottish Government's consultation paper will address all three calls of the Equal Recognition campaign.

The STA addressed the issue of self-declaration in relation to women's services, following several recent ill-informed articles on this topic in English newspapers. The vast majority of women's services in Scotland, such as Women's Aid and Rape Crisis, are already inclusive of trans women, regardless of whether they have had their gender legally recognised. This includes being inclusive of those trans women who may still be legally recognised as male. It is the Equality Act 2010, not the Gender Recognition Act 2004, which places a duty on single-sex services to make reasonable adjustments to respect people's gender identity.

No women's services in Scotland require seeing a person's birth certificate in order to grant her access to a service. Asking people in crisis for paperwork is inappropriate, as an abusive partner will often hide or destroy identity documents as a means of abuse and control. Furthermore, people are already able to update the gender on their driving licences and change their names by self-declaration – and the STA have never heard of any man doing either of these things in an attempt to access a women's service, in over ten years of working closely with many gender-based violence services in Scotland.

Women-only services, such as refuges, already have robust risk-management and safeguarding policies in place, to be able to identify and prevent a female perpetrator of violence being able to access a service where someone she has abused is staying for example.

The STA addressed the issue of self-declaration in relation to prison services. The STA has been working closely with the Scottish Prison Service (SPS) for nine years. The SPS works on a model of individualised risk assessment, and having a gender recognition certificate (GRC) does not determine which prison you're placed in.

The STA commented on the general misunderstanding of both young trans people and what the Equal Recognition campaign is calling for. Being able to change gender on a birth certificate does not mean a twelve-year-old will be able to access gender reassignment surgery. It is simply a document change. Access to surgery will still be for over 18s.

The STA commented that the main concern relating to non-binary recognition was the updating of public sector IT systems to allow for a third gender. The STA said that they are realistic in their expectations and are not expecting non-binary inclusion to be implemented overnight. They are happy for there to be a time allowance, whereby public sector bodies update their systems at a time that is convenient for them, i.e. when a IT system upgrade is due.

PH thanked the STA for a comprehensive overview of the Equal Recognition campaign and the potential challenges. He asked if we should expect substantive opposition in relation to non-binary recognition and non-binary people accessing single-sex services.

The STA explained that single-sex services and systems are already accommodating non-binary people. For example, if a non-binary person is searched by the police, they are asked whether they would prefer to be searched by a male or female officer, depending which is a better fit for them.

The STA commented that non-binary recognition will substantially increase the length of the bill, particularly in relation to civil servant drafting time, as non-binary inclusion will require other pieces of legislation to be amended. The STA are not calling for the removal of gendered language in legislation, but simply the addition of non-binary identities, so all people are covered in law. The STA would rather the Scottish Government took longer drafting the bill and getting non-binary recognition correct, as opposed to excluding non-binary recognition to speed up the bill process. They anticipate that the self-declaration and age related asks will have less practical barriers.

In relation to general opposition, the STA said there are a small number of anti-trans feminists in Scotland who will oppose the Equal Recognition campaign. However, the mainstream feminist organisations in Scotland, such as Engender, are fully supportive.

The Equality Network commented that there is also potential religious opposition, although there has been little so far. The Rev David Robertson from the Free Church

of Scotland, who opposed the Equal Marriage campaign, has already spoken out against gender recognition. The Roman Catholic Church have not yet commented.

The Equality Network also commented that during the LGBTI Hustings last year, First Minister Nicola Sturgeon said that she wanted non-binary recognition to be as important in her next parliamentary term as equal marriage was to the last, a strong commitment which was welcomed by the Equality Network and STA.

Dumfries and Galloway LGBT Plus asked the STA how the inclusion of non-binary identities would be implemented in NHS systems, with prostate screening for example.

The STA said that the NHS is already coordinating appropriate screenings for trans people, for both prostate and cervical cancer. The introduction of non-binary people would not make this any harder and should not require significant changes. They also noted that not all trans people access hormones or surgery.

SX/ Waverley Care commented that PrEP is also gender specific, and suggested consulting with sexual health clinics regarding the inclusion of non-binary people in their services.

The STA said that they are working with LGBT Health and Wellbeing regarding the gap of knowledge in sexual health services around trans and non-binary people. There is currently no research on non-binary people and sexual health. The numbers of trans people accessing sexual health services is increasing, which is positive, but can be a challenge for services.

JG asked if the STA are giving evidence on the Gender Representation on Public Boards (Scotland) Bill.

The STA confirmed that they are giving evidence next week, and that they have been working closely with various women's organisations to discuss trans inclusion in the bill and its implementation.

7. Updates on other matters – mental health, inclusive education, older LGBT issues, blood donation, hate crime, forthcoming pardons bill, sport

LEAP Sports Scotland told the group that as today is National Fitness Day in Scotland, they held a successful event at Shawlands Academy in Glasgow, where Aileen Campbell, Minister for Public Health and Sport, spoke about the importance of LEAP Sports' new Manifesto for Inclusive Physical Education.

Pink Saltire told the group that Fife held its first Pride during the summer and that consultations are underway regarding holding Pride events in both Dundee and Forth Valley next year.

Fearless (Sacro) told the group that their joint research with LGBT Youth Scotland on LGBT domestic abuse is due to be published soon. They commented that a third of respondents in their research identified as non-binary.

Stonewall Scotland told the group that they have recently published both a hate crime report and their five-yearly school report, which found that trans young people are experiencing significantly higher rates of bullying than LGB pupils.

Dumfries and Galloway LGBT Plus told the group that their research with LGBT Health and Wellbeing on older LGBT people in care home settings will be launched on 19th October in Dumfries.

SX/ Waverley Care provided the group with an update on both blood donation and PrEP. Scotblood have reduced the deferral period for gay and bisexual men donating blood from twelve to three months. They are also considering introducing paired assessment for male couples giving blood, although this could be potentially problematic. SX/ Waverley Care suggested inviting Scotblood to a meeting of the LGBTI+ CPG. PrEP has been licensed since the beginning of August, but the uptake of PrEP has outweighed supply.

JG commented that this has placed additional pressure on sexual health services, and that some people are now waiting nine to ten weeks to access PrEP.

Pink Saltire asked if most of the demand has been in the big cities or if it is across the country.

JG commented that in rural communities with a lack of sexual health services, people's first point of contact in accessing PrEP would be their GP. Depending on people's relationship with their local GP, this could be problematic.

Dumfries and Galloway LGBT Plus also commented on the lack of marketing on PrEP in rural communities. More resources are needed.

SX/ Waverley Care said that they could provide resources and that they are looking into running a national campaign.

It was suggested that the group could liaise on these issues with the CPG on Sexual Health and Blood Borne Viruses – several members of the group are also members of that CPG.

Equality Network told the group that their LGBTI hate crime report is due to be published mid-October, shortly before National Hate Crime Awareness Week. They also said that they have been liaising with Lord Bracadale and his team regarding the current review of hate crime legislation, the consultation for which closes on 23rd November.

Equality Network also provided the group with an update regarding the forthcoming pardons bill, which they have been discussing with the Scottish Government. The bill will grant a formal, symbolic, pardon to any person who was convicted in the past for an offence related to sexual activity between males, which is no longer a crime. This should include a range of things that were crimes in the past, including consensual sex between men, and offences such as "importuning" (chatting up another man), and acts such as kissing in public. The pardon will apply automatically to everyone convicted of such offences in Scotland, whether they died before the pardons bill comes into effect, or are still living (unlike the English legislation). The bill will also

allow people who receive the pardon to apply to remove the details from their criminal record. This is called a “disregard”. This will be particularly useful for people who need criminal record checks for purposes of work or volunteering. To apply, you will need to fill in the details of the “offence” on a form, and the Scottish Government will then check that what you did is no longer a crime, and will then effectively remove it from your record. The Equality Network are also running a survey on the pardons bill, to gather the views of the wider LGBTI community.

STA told the group that they are supporting the organisers of Trans Pride Scotland, which is going to take place on 31st March 2018, International Transgender Day of Visibility.

TIE told the group that the inclusive education working group will be addressing bullying in schools in the October meeting. They also said they are now seeking a ‘super majority’ of MSPs (which is formally defined as at least two-thirds of all MSPs, ie at least 86) to sign their pledge.

Police Scotland told the group that if they would like any particular information from the police at future meetings, to notify them in advance so the police can prepare the relevant information.

8. Any other business

SX/ Waverley Care asked about the possibility of help with travel costs to support people outside the central belt to attend the meetings, as train fares are expensive and it is important the group engages with LGBTI people across the country. It was suggested that it might be possible to find sponsorship for the group to cover this.

JG said that the group can use video conferencing within certain committee rooms in the parliament, which would enable people to virtually attend the meetings. He also commented that the CPG meetings do not need to be held within the parliament.

Following some technical difficulties with the Google group, it was agreed that the group secretary would send a test email to the group, and everyone should confirm receipt of the email.

It was noted that it could be useful for the group to consider having a social media presence.

9. Date of the next meeting and agreement of main discussion items for the November and February meetings

Next meeting: Wednesday 29th November 2017, Committee Room 4, 6-8pm.

It was agreed that the November meeting will focus on two themes: intersex equality and sport. The Equality Network proposed inviting two UK-wide intersex

organisations to the meeting – Intersex UK and UK Intersex Association – and this was agreed.

It was proposed that the February meeting will focus on blood donation and sexual health more widely, and also older LGBT people (including a focus on housing issues).

AGREED ACTIONS

- TIE to resend letter template for MSPs to use when contacting their local authorities regarding LGBTI inclusion in schools.
- Equality Network will forward the group's invitation to the November meeting to Intersex UK and UK Intersex Association.
- The group secretary to send a test email to the group, and all members should confirm receipt of the email.