

# Women and Equalities Committee

Oral evidence: [Transgender Equality Inquiry](#), HC 390

Tuesday 13 October 2015

Ordered by the House of Commons to be published on 13 October 2015.

Written evidence from witnesses:

- [Peter Dunne](#)
- [Scottish Transgender Alliance](#)

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Members present: Mrs Maria Miller (Chair), Ruth Cadbury, Angela Crawley, Mims Davies, Mrs Flick Drummond, Ben Howlett.

Questions [130-197]

*Witnesses:* **Peter Dunne**, Visiting Researcher, New York University Law School, **Karen Harvey**, Chair, a:gender, **James Morton**, Manager, Scottish Transgender Alliance, and **Ashley Reed**, initiator of online petition on gender self-definition, gave evidence.

**Q130 Chair:** Good morning. Can I start by thanking you for being here today, on behalf of the whole Committee? I know you are incredibly busy and to make time to come and give evidence today is incredibly helpful to us. I will not introduce each individual member of the Committee, to save time, but I am sure you will have looked into us beforehand. Could I ask you to state your name and the organisation you represent before we start? Then the Committee will ask a series of questions; we are really interested in your responses to those questions. Perhaps we can start with Karen.

**Karen Harvey:** Good morning. My name is Karen Harvey. I am the Chair of a:gender. a:gender is a Civil service support network for staff in Government Departments and agencies who have changed or need to change permanently their perceived gender or who identify as intersex. a:gender provides support for both staff transitioning in the workplace as well as managers and work colleagues impacted. We deliver awareness sessions across the entire UK Civil service to increase awareness of transsexual and intersex. We also provide guidance and advice on transsexual and intersex issues and help Departments to develop their policy. It is our aim that, one day, the Civil service will have universal policies for both transsexual and intersex.

**James Morton:** My name is James Morton. I am the manager of the Scottish Transgender Alliance, which works to achieve gender identity equality and human rights in Scotland through policy and

good practice development, research, training and community engagement. We take a fully inclusive trans umbrella approach, so we cover trans men, trans women, non-binary people and also those who cross-dress or express their gender in a variant way. We recently ran a non-binary survey, and I hope that we might get a chance to talk a little bit about that.

**Chair:** I am sure you will.

**Ashley Reed:** Good morning. I am Ashley. My pronouns are ‘she’ and ‘her’. I am a student at York and I am the creator of the petition regarding self-definition of legal gender.

**Peter Dunne:** My name is Peter Dunne. I am a legal researcher at New York University Law School and an Ussher Fellow at Trinity College, Dublin.

**Chair:** Thank you all very much. Flick Drummond is going to kick off the questioning.

**Q131 Mrs Drummond:** I am going to start with just a bit of information, if you would give it to us, about the Gender Recognition Act. Peter, could you summarise the Act and how it operates?

**Peter Dunne:** The 2004 Act is a bit like Ronseal: it does exactly what it says on the tin. It is meant to provide a process for individuals to have their preferred gender, which is referred to as their “acquired” gender in the Bill, legally recognised in the United Kingdom. It came out of the European Convention on Human Rights law, jurisprudence from 2002. Basically, the Act allows individuals to apply through two tracks in order to obtain recognition. The less frequent is an overseas track, where you get the UK to recognise your recognised gender from another jurisdiction. The more common or frequent track is where somebody applies here through a process of having lived in their gender. You apply to a gender recognition panel.

In order to do so, you have to satisfy a number of conditions. You have to show that you have obtained a diagnosis of gender dysphoria. You have to have lived in your acquired gender for two years. You have to be 18 years or over. You have to provide a statement that you intend to live in your gender for the rest of your life. If you are married in England and Wales, you have to obtain spousal consent for your marriage to remain and, if not—I think we will discuss this later—you have to obtain an interim gender recognition certificate, by which you can get an annulment and then you can apply for a gender recognition certificate.

If that is not granted, you can apply to the High Court on a point of law, and if it is not granted, you have to be given reasons. If it is granted, you are recognised in your acquired gender for all purposes of English and Welsh law. There are exceptions in terms of family rights, so any rights that accrue to you already under family law do not change. There are exceptions in terms of succession law. There are exceptions in terms of criminal law and—this may not apply—there are also exceptions in terms of participation in sport, which is something that also comes up under the Equality Act 2010.

That is a basic overview of how it works. I am sure there are individual mechanical issues as well, but that is an overview.

**Q132 Mrs Drummond:** Ashley, you, very bravely, put the petition forward, and I think you have said that you find the procedure humiliating, outdated and unnecessary. Do you want to explain a

bit more about that?

**Ashley Reed:** Yes, sure. There is a lot more wrong with the gender recognition process than just the tribunal system. I just want to say that currently it does not provide for the majority of trans people, which is to say those who are non-binary, those who are in a marriage or civil partnership and those who are under 18. To answer your question, in terms of the specific words that I have used, such as “humiliate”, it is humiliating to have your gender assessed by someone else. You are the only person who can come to that realisation, not a panel. It is an outdated system. The current system just does not provide for what is the majority of trans people nowadays. In terms of expense, there is a £140 fee, which can be subsidised or paid for, but it is a system that puts a lot of people off applying. It certainly put me off applying, because I do not feel it necessary to have my gender looked at by a group of people.

**Chair:** James was going to interject.

**James Morton:** Yes. In addition to the issues that Ashley has pointed out, we have also had to support a number of trans people who have been really traumatised and humiliated by the process where they have undergone various medical treatments. The Act says you should be able to access your gender recognition without necessarily having those, and yet the gender recognition panel has insisted on really intrusive levels of detail about the surgeries that people have undergone or their intentions for future surgery. We have had, for example, a young person in their early 20s who has not yet had any sexual relationships being forced to decide and state categorically whether or not they want genital surgery and being questioned over the fact that initially they wanted breast augmentation but then grew breasts through hormone treatment. Panels have been incredibly pedantic about any perceived inconsistencies in the medical reports, which means that people end up extremely upset and feel really invalidated.

**Q133 Mrs Drummond:** Do you have to go and speak to a panel, or is it just done by sending in your application?

**James Morton:** You send in a big wad of documents; they pick those apart, and then they send you back a document in legalese complaining that various parts are not quite in order, and people get incredibly stressed out about it. A lot of people hear about other people’s experiences and they go, “Okay, I am just not going through that. I will just take my chances with my documents ending up being a bit of a mishmash of different genders and different things, and I will just try to cope with that”, because what should be a process to protect your privacy and to uphold and validate your identity ends up being the reverse.

**Q134 Mrs Drummond:** It is a major hurdle, you are saying, and a really big block. Is that what you are saying, Ashley?

**Ashley Reed:** Can I just add, regarding that process of needing all this evidence, that people who do not choose to medically transition will not have that evidence if they have not gone through NHS treatment, which a lot of trans people choose not to do. They do not feel it necessary.

**Q135 Mrs Drummond:** What about other countries? Do they do the same procedure?

**Peter Dunne:** When we talk about international law and we talk about best practice, we have to

take a very realistic view here as well. It is very difficult talking about international human rights law in this area, when gender identity was not discussed at the UN until 2006 and the approach to the way these statutes were developed was, until about 2012, almost one that did not recognise trans people as human beings. So to talk about human rights comparatively is difficult, but there are a number of jurisdictions, particularly in western Europe, which are moving towards a model of self-declaration, and that really is now the gold standard. We saw that in 2012 in Argentina, but it is rapidly happening now in Europe. Ireland has adopted self-declaration; Denmark has adopted self-declaration; Sweden and Norway will do that from 2016; Belgium has committed to self-declaration; Malta has adopted self-declaration.

At the international human rights level, six months ago a resolution was adopted in the Parliamentary Assembly of the Council of Europe. That is not binding and often these are just talking shops, but what is so important about these resolutions is that, very often, they happen as common knowledge and best practice are changing. In 1989, there was a resolution on the recognition of trans identities in law, and it was the time when jurisdictions began to recognise that. In 2010, we had a resolution on moving away from physical medicalisation and intervention, and what was so interesting about the 2015 resolution, only six months ago, was the line, "Develop quick, transparent and accessible procedures, based on self-determination". That shows that it is now time for self-determination, and that, when we talk about international human rights law, there is very little debate over what is the appropriate standard.

Yes, there are other jurisdictions in Europe that are not doing this, but you have to look at the underlying reasoning. What is their mentality? If you want to be a forward-thinking, human rights-conscious jurisdiction, there really is only one way in which the law can go.

**Q136 Mrs Drummond:** Yes. James, you were going to comment on that.

**James Morton:** I wanted to point out that if you have undergone gender reassignment, transitioned in another country and you come to the UK, you are not automatically recognised even if you have changed your gender in that other country. You can apply through the overseas route, which expects you to have at least an equivalent level of evidence in your country as the UK requires. For example, for people who are getting their gender recognition in Ireland, it looks unlikely that they would be allowed to use the overseas route to the UK, because Ireland has fewer medical requirements or does not have medical requirements.

If you do not have access to the overseas route, you have to apply through the standard route, which would mean you would have to enter the NHS system in order to get medical documents, and that can mean a wait of over a year for the first appointment to be assessed. There are already massive strains, as you heard in your previous evidence sessions, on the NHS gender identity clinics, so adding extra people into the loop is unhelpful.

Finally, a lot of people who are either migrating to the UK or here on holiday do not realise that they are not legally recognised in the gender that they are back in their home country, so you end up with a situation where people think they have rights that they do not. We have had situations where people thought they could get a civil partnership, but because they turned out to still be regarded as opposite sex in UK law, even though they are a same-sex couple in their home country, their civil partnership was cancelled at the last minute. That was incredibly

upsetting for them.

There are all these kinds of things. Insurance: if you do not get your gender recognition certificate, your insurance might be invalidated. All those kinds of things just make for a red-tape nightmare that could so easily be avoided.

**Q137 Mrs Drummond:** Does this apply to non-binary people as well?

**James Morton:** Non-binary people do not have any provision under the Gender Recognition Act at the moment. Since it requires you to prove that you are living fully in a male or female gender to get gender recognition, someone who is non-binary is stuck with their birth gender. Even if an imperfect compromise would be the other gender, they cannot access that even if they wanted to, so it is a mess.

**Q138 Chair:** Can I just ask a supplementary there? That may be the case under the Gender Recognition Act, but could you just give us some thoughts on whether you feel that the broader law, particularly the Equality Act, extends to recognising non-binary identities as well?

**James Morton:** This was a point of debate during the passage of the Equality Act and in the sixth sitting of the committee-stage debate on the Equality Bill. The Solicitor General, Vera Baird at that time, stated that the intention was that it should cover the whole spectrum of different gender identities. However, subsequent to that there has been a lot of guidance put out by the GEO and others that says it does not, or that it only covers them under perception—

**Q139 Chair:** That it does not?

**James Morton:** The concept of gender reassignment, although it states “any part of the process”, it is not clear whether that gender reassignment part of the process has to be intending to go to a binary gender of male or female, or if a process going to a more indeterminate gender would count. It is not clear, because it says “transsexual people” in the Equality Act, whether non-binary people would be properly covered.

**Q140 Chair:** Let us just be really clear here. There are two issues. One is whether or not the law is able to cover non-binary, and the second is whether the guidance clarifies it or not. On the law, Peter might want to come in here as well.

**Peter Dunne:** I think that is the problem. There is no definitive answer. It talks about a process and different stages of a process, but there are two ways of looking at it. It may simply not refer to it, in that if somebody is, for example, gender-fluid, they are not going to be moving through the process. However, there is also the perception as to whether or not individuals feel that they can invoke this legislation, and that might be one of the more troubling aspects, because if you look at an Act and you look at the law, and it does not refer to gender identity—it refers to reassignment; it refers to a process—then you are unlikely to think that that law applies to you, and so you self-select out. That is a major problem in terms of the drafting of the law.

**Q141 Chair:** Surely it is not just a drafting issue; it is also about case law, so why is there not more case law here? There is some in the European Court, but there is no case law here. Why has

somebody not brought a test case?

**Peter Dunne:** That could be exactly the point. It could be that people do not feel that the law applies, so they are not willing to try it. A bad precedent can be one of the worst things to have. Ambiguity is sometimes better than having a bad precedent. Maybe some people do not want to bring it.

**Q142 Chair:** James, why does the guidance not clarify this, or am I misinterpreting what you are saying?

**James Morton:** We would like to see the protected characteristic be gender identity as defined in the Yogyakarta Principles, so it is clear they are fully inclusive. In terms of case law, there is a lot of fear about being a test case. It is incredibly emotionally demanding. You would be scrutinised by the press; your identity may well end up mocked. You do not have a guarantee that there would be reporting restrictions; you might be lucky and get those, but you are not certain to. We have been trying to persuade people to take forward test cases, but people are very nervous of doing so, and we cannot make someone give up years of their life to that process.

The guidance could be stronger and better, but really without moving to a protected characteristic of gender identity there are still these loopholes. There are also non-binary people who decide, for various personal reasons, “I am not going to change the gender in which I live. I am going to continue living in my birth gender, but I might want to share with others that my gender identity is not as simple as that.” However, the act of sharing that information could lead to discrimination, and, because they are not proposing any part of a process of moving away from their gender assigned at birth, they would not have protection. The perception coverage would only be if they were perceived as transsexual, and if they have come out as non-binary, they are being perceived as non-binary, not as transsexual. So even if you had some case law, there would still be these gaps, and that is why we think that the protected characteristic needs to change.

**Q143 Mrs Drummond:** I have just one more question, about the age. At the moment, it is 18 here, for the Gender Recognition Act. What age do other countries have it, and what age do you think we should set it at?

**James Morton:** Other countries, such as Malta, for example, allow people under the age of 18—of all ages—to access gender recognition. The view of the Scottish Transgender Alliance is that 16 and 17-year-olds should be allowed to access gender recognition in the same manner as over-18s. In Scotland, people get married and make all kinds of important life decisions from 16 onwards and, for under-16s, we believe that with parental support people should be able to take forward a change of their legal documents.

**Q144 Mrs Drummond:** Ashley, do you agree with that?

**Ashley Reed:** I would strongly agree with that, yes. I have nothing more to add.

**Peter Dunne:** In terms of the legislation, it depends. It would be wrong to come here and say that every jurisdiction in the world allows individuals under the age of 18, and we are not saying that. Eighteen is, I think, the general standard, but, once again, we have to look at what the reasoning

was behind that. If you look at the recent jurisprudence, in Argentina there is no limit but there is a court procedure; in Malta there is an administrative procedure, which involves the parents; Sweden is going to move to a 15-and-over self-declaration, and for 12-to-15 it is going to be with parental consent; and in Norway a similar procedure, but from the age of seven, will exist.

I would tend to agree, in terms of 16 and 17-year-olds, on self-declaration, and under that age parental consent. However, I would slightly nuance it a little, in that in Ireland we are going to allow 16 and 17-year-olds, in a very onerous process, and I would not commend that to you. It is a medicalised process in terms of having to get a medical certificate, but one of the more difficult things is that it requires both of the parents' consent. Yes, in Ireland accessing medical treatment is difficult, but so is the idea that any young person would have the support of both of their parents. In other jurisdictions, such as Argentina, what they have done is very much put parents at the front and centre. You want to bring parents into this, and parents do have rights and they have a very important role, and in no way should you take the parents out, but in those circumstances where parents are not supportive, other jurisdictions have provided a court advocate. They can act almost in loco parentis and can go before the administrative authority or court, if it is a court that is providing this, and can provide an objective, professional account, which just means that parental support does not become an ultimate hurdle. That is something that perhaps you could consider. Absolutely the parents are very important and no jurisdiction says they are not, but you have to understand the reality that not everyone has parental support.

**Ashley Reed:** I want to preface this by saying that I in no way believe that medical opinion should be a part of the process, but it is important to say that if you can be diagnosed with gender dysphoria under the age of 18, I do not see any reason why you should not have autonomy over your own legal gender. If you can live independently, as you can, at 16, I do not see why your parents should have a say in that, especially when you consider how much of an issue estrangement is for trans children.

**Q145 Chair:** It appears from the evidence that a timely intervention is important, so to what extent are you aware that there is any research happening to look at the different approaches that countries take, and do you think it might be useful for somebody to look at how effective it can be to intervene in a timely manner rather than a manner that is dictated by an arbitrary cut-off of age?

**Peter Dunne:** A lot of the research does not look at the importance of intervention from a legal transition process. A lot of the medical research looks at early intervention from a medical perspective, such as puberty blockers. Last year, a very influential study from the VU University in the Netherlands, where they have the Dutch protocol, showed that with early intervention at Tanner stage 2 and 3—the providing of puberty blockers—the mental well-being of children who go through that process from the age of 12 to 16 was better than or as good as cisgender children of the same age. So it really did reinforce the importance of early intervention. It is, though, important to say that that is in terms of medical intervention.

There was a research study this year—I have it in my submission—which showed how young people can have a stable gender identity at a very young age. That is obviously also one of the difficulties. One of the fears is that people think this is something that children are unaware of or it is just a phase. The research tends to show that in a properly supervised system that should not be a massive concern—that individuals are able, at a young age and through their

adolescence, to express a stable gender identity.

**Karen Harvey:** There is one word that has not been used here, which is very significant in the 2004 Act and carries through to the Equality Act. I mentioned it in my opening; it is “permanently” changing. Not everybody signs up to that. However, especially when you are talking about young people, there has to be a process that makes sure, as much as possible, that there are no mistakes, because when people go through adolescence, when people go through puberty, there is all sorts going on in their mind and people do change their minds, settle down, whatever. In terms of a:gender being the Civil service support network, we specifically support and give advice on transsexual, and it is a permanent change. For that permanent change, there have to be safeguards in place. This is going to upset people who identify as fluid, but we are talking about legislation and we are talking about people’s rights here, and protection. It has to be the case that it really is understood and agreed that this is a permanent change and it is right. It is not something that is okay at this moment in time in some person’s life.

**James Morton:** It is really important to recognise that what we are asking for is a system where somebody could receive an “F” on their birth certificate if they identify as female and therefore wish to live their life as female, an “M” if they are male, and an “X” if their gender is more complex than that. Someone who is gender fluid would not be seeking the “F” or the “M”; they would be seeking the “X”, because they would want a document that did not tie them down to legally being recognised as a man or woman. The people who are applying for an “M” or an “F” would see themselves as permanently identifying that way, but it is about them being trusted to apply for that. At the moment, that sense of permanence you can see in terms of marriage, in that you would enter a marriage intending for that to be lifelong, but sometimes it does not work out; sometimes you end up in a second marriage. There will be a small number of people whose intention to identify as a man or a woman might end up changing, but that is not a reason to put onerous hoops in place for others. It is not the end of the world if someone does end up changing their documents back later. There is no evidence that people switch back and forwards their documents repeatedly in the countries that have less onerous requirements for gender recognition.

**Ashley Reed:** I just think it is really important to say that this idea of permanence is grounded in this kind of pathologised view of being trans, where being trans means that you go through hormone therapy and then you go through surgery. I do not think that this is a healthy idea of trans-ness, because a lot of people do not do that. We have to deconstruct that and see legal recognition as something entirely separate; it is not necessarily a permanent change.

**Q146 Mrs Drummond:** You would agree that you could go backwards and forwards, as it were.

**Ashley Reed:** Yes.

**Q147 Ruth Cadbury:** I have one question generally about the process of self-definition as it works in other jurisdictions. Is there anything you wanted to say or recommend about the process in those jurisdictions that you have not already said or put in your submissions? You have made a strong case that we should move towards self-definition. Is there anything about which processes would work better than others, or is that fairly straightforward?

**Karen Harvey:** Is this in terms of the gender recognition certificate specifically?

**Ruth Cadbury:** Yes, or the equivalent. Ashley, your petition is asking for a change, moving to self-definition. How does the process of self-definition work? Is that fairly straightforward and there is not a lot to discuss, really, once we make that change?

**Peter Dunne:** It is generally an administrative process. It is very much a statutory declaration, which you submit. In Ireland, it has literally just come in and it has worked in about two weeks; some people have received their certificate in two weeks. The only time the court comes into it, in jurisdictions that do have it, is where there is an issue around very young children, under the age of perhaps 16.

**Ruth Cadbury:** Which we have covered already.

**Peter Dunne:** Yes. Some jurisdictions have a court procedure where you have to go before a circuit family court.

**Ashley Reed:** On what you can get from your gender recognition certificate, I do want to say that the absolute minimum would be to have an “Other” category as well as “Male” and “Female”, because that is the main problem that I see with the Irish Act right now: it does not have that. For proper equality it would ultimately have to be a matter of something that you could define yourself.

**Q148 Ruth Cadbury:** Can we move on to the questions about data protection? Peter, what provisions does the Gender Recognition Act contain for the purposes of data protection, and how does the Act compare in this regard with other jurisdictions?

**Peter Dunne:** There are a few things to talk about here, and I feel the other panel members may be able to talk about how this is working in practice. Section 22 says that if you acquire protected information in an official capacity, it is an offence to pass that information on. Protected information is information about the fact that you have made an application or that you have a successful application. You are in an official capacity if you are working in the Civil service, for a local authority, as a police officer, in a voluntary organisation, if you are providing services, or if you are an employer or the employee of a service. Basically, there is a prohibition there on passing on that information. There are exceptions, which could be where there is a court order, where you, as the person who has made the application, have provided consent. One of the odd ones is where there is the instigation or the carrying on of court proceedings. The Secretary of State is able to make exceptions. There is any statutory exception that happens in the Bill. There is also an exception in relation to issues regarding social security and pensions. I think this is fairly standard.

In other jurisdictions, their legislation is a little bit shorter. For example, Argentina will just say, “You cannot pass that information on”, and implementing instruments would then carve out exceptions. I think Ireland has very similar provisions. Generally, what most jurisdictions do is they recognise that there is a general data protection right and then there are certain exceptions. The proof of the pudding very much becomes what those specific exceptions are, and then—perhaps, an issue that I can speak less to—how these are actually working in practice. I get the feeling in the United Kingdom that that is an issue that needs to be looked at.

**Ruth Cadbury:** James, are there particular issues that arise around disclosure, particularly in court

proceedings?

**James Morton:** There has not been any significant research, but anecdotally people do raise concerns about disclosure in court, particularly in regards to family custody hearings, but also where people have been the victim of a hate crime and their gender recognition status and history comes up. The way to tackle that is probably in regards to providing better training for the judiciary, but also in terms of strengthening reporting restrictions. The problem is when it is revealed in court and then it is reported in the local newspaper; it becomes very problematic that way. I am not aware of any prosecutions under Section 22 at the moment and, again, there has not been any research into why there have been so few. Anecdotally, people have expressed concern that maybe police and prosecutors are unwilling to progress the criminal case because it is a criminal charge rather than a civil court situation, and also, again, this fear of press coverage: the very people who are the most upset about the Section 22 violations are the ones who are going to be the least willing to then take that into a court setting and have it discussed further in the public domain.

**Karen Harvey:** When parts of Section 22 are breached, very often that can be in the case of goods or services, with the sensational factor about, “You will never guess who my client is”. I did submit some evidence about something that I experienced. The individual involved is, quite often, in a pretty bad place to start with and is in no way mentally fit enough, and probably financially not in a good position either, to take forward any prosecutions. In fact, to do that would be to accentuate the original issue and make it a bigger problem for the individual involved. There does not seem to be any sort of protection for the individual going through the process in terms of things like the press. Once the press get it, it goes completely out of hand and can ruin an individual’s future. That is why there probably have not been any successful cases brought forward here.

**Peter Dunne:** If you think about a practical case, say you are a trans individual and you are the victim of, say, a car crash and you are bringing a claim against the individual and there has to be litigation. That is a court proceeding, and under the wording currently, the person who you are bringing the suit against could possibly bring up your identity, even though there is no need or necessity for it. However, the Act is worded in such broad terms that it is part of the litigation.

What seems to be so important is that there is this lack of data about disclosure and about prosecutions. One of the very first things, at the very least, would be trying to get data on where it is, recording it and getting a clearer picture. There was a case earlier this year in the High Court. The facts are not particularly specific: it was about somebody attempting to change their registration on the child’s birth certificate. One thing that the judge in the High Court spoke about was how disclosure of one’s gender identity and one’s history to a statutory officer or in a statutory setting would not entail material interference in that person’s life under Article 8 of the European Convention, because there was statutory protection and a statutory prohibition on individuals in an official capacity from passing on that information. Under the terms of the Act that makes sense, but the response from individuals was, “What? It is in official settings that we are most likely to see gender identity disclosed”. There was clearly a dissonance there between what the court was saying—because the court was basically relying upon what the provision was in the Act—and what people’s experience in reacting to that judgment was, which shows that there needs to be an understanding of how Section 22 is operating.

**Q149 Chair:** Can I just ask what is the best way that that can be achieved?

**Peter Dunne:** I honestly do not know. It probably involves consulting with the trans community to understand how individuals would be able best to feel comfortable disclosing this information and how best people can report disclosures. There would have to be a dialogue with the community there to come up with a process that is most accessible for individuals, because clearly the process of disclosing that there has been a disclosure does not seem to be working. Other people might have a better response.

**Q150 Chair:** Ashley, did you want to come in there? No. Karen?

**Karen Harvey:** It is the same old, same old. It is about awareness just as it is: awareness about trans and awareness about intersex issues. People are not aware of Section 22. a:gender have modules, awareness sessions and workshops where we include Section 22 and absolutely spell it out. In the majority of cases, people have not heard of it, but when they do hear they are absolutely shocked, and so we try to make sure that, in the workplace, people are aware of Section 22 and what it means.

**James Morton:** There is also a difficulty in that it does not cover all trans people. What tends to happen in a service provision or employment is that the person in the official capacity sees that you have changed your name and gender on a document, like your employment records or your DWP file, but they do not necessarily know for sure whether you have a gender recognition certificate or not. Therefore, it is much less clear whether they have or have not violated the gender recognition act Section 22 if they reveal that data. If it covered everybody who had changed their gender on any kind of document, people would feel a lot more protected, and it would be a lot clearer that you do not have to have previously been shown the person's gender recognition certificate to know that you then have that duty to keep it private. There is a Catch 22 there.

**Q151 Ruth Cadbury:** I just wanted to ask Karen: regarding the awareness-raising work that you do in the Civil service, does that also apply in other public services, such as local government? I would have thought there was a lot of relevance for local government as well on this.

**Karen Harvey:** As far as I am aware and as far as any other member of a:gender whom I have spoken to is aware, a:gender is unique in the workplace. The Civil service really is ahead of the game on that one. We also develop products and provide them for management and for key stakeholders. There is a workplace guide that sets out what is policy, what we recommend should be policy, and also key factors, such as Section 22. It is there and it is available. It is essential, in terms of building up protection and giving trans and intersex people the confidence that there is something there should it go wrong, that this awareness is delivered.

**Q152 Mims Davies:** We have covered quite a lot in terms of the call to make the changes in the official and other records. Is there anything else glaring that you want to bring to our attention in terms of the process that people have to go through on that?

**James Morton:** Mostly just that the DWP's Special Customer Records system is perceived as problematic by a lot of trans people. There was a court case, *C v DWP*, and the judgment there was quite difficult to follow. It found that there was a problem with the way that the DWP was attempting to justify how it managed its systems with regard to recording people's previous gender,

but it seemed to give time for the DWP to try to go back and sort that out and come up with a bit more clarity. Certainly for trans people what they are asking for is clarity: where is it being listed? How is it being dealt with? In terms of issues such as being able to register to vote and hire a car and get timely access to your benefits, what are the solutions, because with the Special Customer Records it ends up meaning that sometimes you are not found when they do DWP checks? People do not understand how it works. They do not have an easy-to-follow guide about what it does and does not do for them, and how they can make sure it does not end up giving them a worse service instead of a better one.

**Q153 Mims Davies:** Is there any other feedback on that one?

**Karen Harvey:** Just to mention that HMRC have a Special Section D, and in terms of a gender membership—I am representing the members—there is a lot of very positive feedback. Special Section D is a small, tight unit that is specially trained, and it is a very confidential way of dealing with customer records. That is how HMRC deal with it.

**Q154 Mims Davies:** Some happy customers; good. I am going to apologise, because I have to go into the Chamber very shortly for a question. Regarding passports and other official documentation, is there a belief that the holder's gender should be recorded as an "X" if they choose? Personally, I am not sure what gender matters these days anyway, but do you have a view on that?

**Ashley Reed:** I think that an "X" mark, on passports especially, would prevent non-binary people from being misgendered and would also go some way to tackle the issue of trans people being falsely accused of using fake passports, which happens a lot and people end up in a loophole at airports where they are stuck and being searched.

**Q155 Chair:** Given that a number of countries now do allow that to happen, why do you think that has not been adopted as a system in the UK?

**Ashley Reed:** Sorry, could you repeat that?

**Chair:** Historically, there were some sensitivities around having gender recorded as "X" on a passport, for reasons of international relations, but given that other countries are now doing that—I believe Australia has adopted that methodology—that problem must have been resolved. Peter, do you feel that that has not been resolved?

**Peter Dunne:** There is a concern about international law and whether or not, for example, jurisdictions like the United States would accept some of these passports, so I think that is why it remains. Absolutely there is a movement towards having "X" passports. One of the benefits of the "X" passport as opposed to the birth certificate is that the birth certificate becomes a foundational document. Therefore, rights accrue from the birth certificate and that makes it a bit more difficult, whereas with the passport it is a document about travelling and so, therefore, some of those rights do not happen as much. This is very much a personal view, but I would be in favour of looking towards "X" passports. Certainly in the resolution from the European Council, there was encouragement to consider that issue. The only thing that I would say is when we look at other jurisdictions in terms of "X" recognition, just so that we are open and honest, we have to draw a

distinction between those jurisdictions that recognise trans individuals with an “X” marker and those jurisdictions that provide “X” markers for individuals who are intersex. Some jurisdictions provide it for individuals who are intersex and do not provide it for individuals who have a trans identity.

**James Morton:** The International Civil Aviation Organisation recognises that “X” is an acceptable gender marker, and as long as people are fully informed about their decision to opt in to having an “X” on their passport, then they should be entitled to make the decision about whether certainty about being able to travel to America is or is not more important to them than the recognition of their non-binary gender on their passport.

In terms of birth certificates, it is slightly more complicated to introduce an “X”, whereas with a passport you could simply start issuing them tomorrow without passing legislation, but we now write our legislation in a gender-neutral manner. There are a limited number of places where men and women are treated differently in legislation, and most of them need to be looked at again from a binary trans perspective as well. For example, family and parental rights are a bit messy now, in terms of whether a trans man has had gender recognition as male but then gives birth to a child and things like that, so these are things that do require revisiting anyway.

**Q156 Chair:** Peter, what is the rationale in the United States for not recognising “X”?

**Peter Dunne:** To be honest, I do not know. They do not recognise it as a gender marker nationally, and therefore will not recognise it internationally. If you do not have recognition in terms of the US for an “X” marker, they may not be willing to recognise it from another jurisdiction. You may have to come within their binary legal system. That might be their rationale. Whether or not that rationale is legitimate, I do not know.

**Q157 Ben Howlett:** Using the term “X” on a passport obviously creates a new category. Ultimately, we are trying to get to a position where there is gender neutrality full stop, so why would we need to have “X”? Why not get rid of “Male”, “Female” and “X” altogether? Are there any benefits or cons to that?

**Chair:** Are there any other countries that do that? I guess there are areas of law that, at the moment, require gender to be specified, but I guess the question is: is that something that would be difficult to overcome in the long-term?

**James Morton:** In our recent survey of non-binary people, 41% felt that nobody should have gender recorded on identification documents, whereas 73% felt that there should be an “X” category. I see it as a way of enabling everybody to make their own decision about how they wish to be inflected. For example, as a trans man, it was very, very important to me to get an “M” on my birth certificate and on my passport. That helps validate my identity, and certainly for some trans people it can make the difference between somebody respecting who they are or continuing to misgender them, so taking that away from people for whom it means a lot would be problematic. Therefore, it is better to enable people to opt, whether or not it is important to them, to have an “M” or an “F” or to have their gender unspecified on a document. It might be that in future years more and more people decide to have an “X” and fewer and fewer people wish to have an “M” or an “F”, but I see that as a gradual process rather than something that you leap straight to.

**Q158 Chair:** That is interesting. There could be a trajectory where you say that you want to try to get rid of gender on as many documents as possible because it seems, from listening to you, that it is creating quite a lot of problems, but then you are arguing against that, perhaps.

**James Morton:** I see it as about recognising that gender is very complex, but the majority of people do identify as men or women. There are some areas of law still that do differentiate, and it is about allowing society to progress in whatever direction it ends up going in regards to gender diversity, while allowing people, as soon as possible, to have respect of their own gender identity. Where they are not identifying as man or woman, or where they do not wish the legal system to be classifying them, they should be able to opt out of “M” or “F”, but not to leap straight to removing it.

**Chair:** We should probably move on to Angela’s area of questioning, sorry; it is a fascinating discussion.

**Q159 Angela Crawley:** My question is to Peter, first of all, to cover the spousal veto. Could you explain the arguments for and against that in a bit more detail?

**Peter Dunne:** Under the original 2004 legislation, if individuals were married they would not be able to obtain a full gender recognition certificate. They would obtain an interim gender recognition certificate, which they could use to obtain a nullity. Afterwards, once their marriage had been dissolved, they could obtain a full gender recognition certificate with which they could, if they wanted, with their former spouse enter into a civil partnership. Under Schedule 5 of the 2013 Marriage (Same Sex Couples) Act, this has been slightly amended. Now there is no requirement to have a dissolved marriage. However, in order for you to obtain a full gender recognition certificate, with your application you also have to provide spousal consent to the marriage remaining in place. The consideration is that this is now turning the marriage from a heterosexual marriage into a same-sex marriage.

I suppose the arguments in favour of it—and some very eminent people have made the arguments—would be that this is a different institution you are entering into; that you have legally contracted for one thing and perhaps it is now different; and there may also be a case that some people morally object to same-sex marriages, and that they do not want to be in a same-sex marriage.

On the arguments against, you could argue that if we take the idea that this is a different institution to its logical conclusion, we could say that everyone who married did so into a different institution, that same-sex marriage radically changed everything, and therefore we need to get everyone’s consent. The reason that other jurisdictions have brought in same-sex marriage and therefore taken away the divorce requirement is that legal gender recognition is, at its core, a vertical relationship between you and the state, and the spousal veto effectively—well, it is not a spousal veto and we need to say that. It is not a spousal veto, because ultimately the spouse cannot stop you from obtaining gender recognition. However, if this is a vertical relationship between you and the state, the spousal consent requirement brings in a lateral or horizontal aspect, in that there is now a third party, but they cannot veto you. They do have a role in that procedure. They can alter the procedure by which you have to obtain legal gender recognition and that does change the relationship. This is no longer something between you and

the state. As a matter of practicalities, if you have a family, if you have a spouse, or if you have children, it may be good practice for you to discuss this with them and for you to talk about this, because it is going to change your relationship with them, but when we are talking about the law —

**Q160 Chair:** Can I just press you on that? Is it not also to do with contract law? It is a contract, is it not? It is a legal contract.

**Peter Dunne:** Yes, but could you not argue that under common law the contract is not changing, because if the point at which we judge marriage is the point of entry, you could argue that this remains a valid marriage? You could say that in terms of contract law this is the exact same marriage as it was before. There are arguments either way. Jurisdictions like Sweden and Ireland have had the exact same issue.

**Q161 Chair:** Both sides have to agree that it is the same. If they do not—

**Peter Dunne:** In terms of the marriage that was contracted and common law, you judge the validity at the point of entry, and it has not changed in terms of its fundamental makeup. You could say that legally it is considered. Certainly in Ireland that was one of the arguments: some people were saying, “We are happy to remain in that marriage.”

**Q162 Angela Crawley:** James, you might want to comment on how Scottish law differs in that respect.

**James Morton:** The Scottish Parliament recognised that, because you have various protections in terms of pension rights that remain because it was originally an opposite-sex marriage, and because the marriage certificate cannot be re-issued with changed details without the spouse’s consent and therefore the spouse being notified, the restriction on getting a new certificate issued for marriage and the right to divorce quickly through another specific proceeding that will allow for having an interim gender recognition certificate provide sufficient protection for the spouse. Therefore, delaying the trans person’s access to gender recognition is not appropriate and is unnecessary, so there is a provision by which you can get your gender recognition without the spouse’s consent in Scotland. It is an inelegant court procedure, though, because of England and Wales being different and trying to marry the systems up.

**Q163 Angela Crawley:** On that point, are there any examples of where case law exists? Obviously, it is still quite new, so are there any tensions that you are aware of within that system?

**James Morton:** We have not come across any tensions. Indeed, it is important to note that it was unanimous across the Equal Opportunities Committee at the Scottish Parliament. Despite the Equal Opportunities Committee having three of the most ardent opponents to equal marriage sitting on it, including people with strong religious beliefs, they still were satisfied with the Scottish process.

**Q164 Chair:** When it comes to legal challenge, though, do you think the situation in Scotland is more open to legal challenge than the situation in England?

**James Morton:** I do not. The Scottish Parliament has a duty to ensure human rights compliance with the legislation it passes, so it has looked at this very carefully and closely, and there has been

no sign of any legal challenge being considered by anyone.

**Q165 Chair:** Peter, would you agree with that?

**Peter Dunne:** I do not think the English system is open to challenge. I would make a policy argument in terms of why the English law should be changed. I think the English law does stand up to review under the UK's obligations under the European Convention on Human Rights. I do not think there is an issue there. There was a case last year where the European Court of Human Rights upheld a much more stringent restriction, one which did require dissolution. Therefore, in terms of human rights law, I think the English law should be changed, but I do not think it is open to challenge.

**Q166 Angela Crawley:** I completely appreciate your point about the legalities, but does the system in England and Wales not create issues in terms of people's experience navigating that system? It is obviously a tad more complicated, to say the least.

**Ashley Reed:** I do not know the exact laws that have been discussed so far, but under the same-sex marriage Act the fact that the spousal veto has been solidified I find completely unnecessary. As marriage has become something where gender does not seem to matter, I feel like there should be no interim gender certificate. There should be no requirement for the spouse to consent. If the spouse has a problem then it should be after the fact that it should be annulled or they should divorce.

**Karen Harvey:** We are talking about people here and talking about relationships and the impact on the person who is going through transition, and it is sometimes used as a weapon. It is sometimes cruelty from the partner who is not consenting to this. Okay, it may be temporary, but it is probably at a time when the person is in the worst place in their life and it is an extra burden on them to be asking their spouse, especially when the relationship has broken down, for their permission for what really is their right, and that is to be recognised in their true gender.

**Q167 Chair:** When it comes to marriage, though, it has to be an agreement on both sides that there is a marriage taken place; otherwise there are other aspects of law that come into play, so would you not appreciate that you need to have two willing partners to, in turn, stay in a marriage?

**Karen Harvey:** It works when it is consensual. If it is a marriage that is going to continue and there is support from the partner, it is not really an issue. The big issue is when the spouse does not agree to it. It is not fair to put that person through that extra hoop. There is no issue if there are two partners who are in total agreement that they will go along with what is required. It is the fact that a spouse can block the progress and block the process of getting true recognition.

**Q168 Chair:** This is perhaps going back to Peter, but if an individual is going through that sort of fundamental change, does their married partner not have a right to know that that is happening?

**James Morton:** Under the Scottish version, they still have the right to be notified. The person cannot get their gender recognition without the spouse being notified that that is happening, so they then can initiate divorce proceedings should they not wish to remain in the marriage in those circumstances. It is about allowing those things to proceed in tandem rather than requiring the gender recognition to be delayed until after the divorce.

**Peter Dunne:** There could be a notification requirement and there could be grounds for, if needs be, annulment after the fact. It is just about preserving the relationship between the individual and the state, and saying, “This is a process about my relationship with the state. It does not involve third parties.” It may seem like a matter of semantics to say it will be after the certificate or before the certificate, but it is hugely symbolic in terms of one’s autonomy over one’s identity.

**Q169 Chair:** I am just going to move us on to the final area of questioning, though I think we could probably have had even longer on that particular section, since it is very complicated. Karen, I am particularly interested to go further on some of the comments you made earlier about the work of the Civil service in supporting trans equality when it comes to employment. Do you think there are things that other employers could learn from the experiences of the Civil service or, indeed, is there a need to go further in the Civil service itself?

**Karen Harvey:** When the Civil service gets it right, it gets it really right and it is very, very good, but it is in pockets; it is not across the whole of the Civil service. In supporting and funding a:gender, the Civil service has made a statement that a support network is required, it is necessary and it is value-for-money. At the end of the day, it is the workplace and it is about delivering and if there is a support mechanism in place that can help the individual, help their work colleagues and help the manager so that people get back to doing their job, then that is something that the rest of industry could take note of. For individuals and managers in areas that have engaged with a:gender at an early stage of a transition within the workplace, the results have been very, very positive and the transitions have quite often been very smooth. In areas where we have not been involved or were brought in as firefighters, there is usually quite a mess and quite a lot of unnecessary damage in terms of relationships and individual circumstances at that time. It is all about the awareness; it is about the support, and a:gender is there to do that because the Civil service has realised that there is a need for that type of network. We are specifically supporting the transsexual who is transitioning in the workplace and intersex. What we try to do is make sure that every business area realises that it is important that they have a standalone policy—not something hidden inside some other generic policy—that protects individuals who are either transsexual or intersex.

**Q170 Chair:** James, thinking more broadly about the way the law works—and we have talked about some of the perceived imperfections of the Equality Act—when it comes to employment do you think it is working to support or protect trans people from discrimination in the way that perhaps Karen would like to see?

**James Morton:** I think that pulling the trans protected characteristic out from underneath the sex discrimination protected characteristic was really, really helpful in the Equality Act. Although we would like the definition slightly tweaked, it has been really effective in terms of encouraging employers and also service providers to take into account the needs of trans people. Intersex people would likewise really benefit if there was, say, a sex protected characteristic that would enable their issues to be drawn out, and I would urge the Committee to consider taking evidence specifically for intersex equality, because it does not do it justice to try to fit it under gender reassignment or under perception of that.

In terms of effectiveness in the workplace, one of our concerns is that we might see some kind of slide back because of the increased difficulties in taking cases of discrimination to employment tribunals. The increase in fees has led to a reduction in discrimination cases going

forward. Certainly a lot of people we speak to, who have strong cases, feel unable to take them forward because of the costs, especially if they have received their redundancy payment, for example, and therefore have more capital than would allow them to get any legal aid for that. I think also the lack of dual and multiple discrimination coverage also hinders the effectiveness of the Equality Act for the most vulnerable in society; for example, minority ethnic trans people or disabled trans people. It can be very difficult to unpick the elements of discrimination, and that lack of a dual discrimination clause does hinder their access to justice.

**Q171 Chair:** What is it particularly about non-binary, just to get on the record your thoughts there when it comes to employment?

**James Morton:** We are aware that the Ministry of Justice said there is no specific detriment faced by non-binary people. In our survey of 895 non-binary people in the UK, within the last five years, 11% said they had been refused services and one-third had experienced harassment in services. In employment within the last five years, one-fifth had experienced workplace harassment and 95% were worried about disclosing themselves as non-binary in the workplace and being discriminated against if they came out. So there is this very strong level of fear and very strong perception of not being protected among non-binary people that we feel needs to be addressed so that they can perform to their best in the workplace just like anybody else.

**Q172 Chair:** Obviously, I know that the idea of there being no specific detriment has been the Government policy for some time now and it was the Government policy when I was a Minister. Maybe James and then Ashley could comment as well. Why do you feel that that sort of level of problem that you have just outlined is not being recognised by the Government?

**James Morton:** I think there has been a lack of evidence base, because it is only relatively recently that non-binary people have felt able to be openly non-binary even in trans-specific spaces. There was often a lot of hostility from trans men and trans women towards non-binary people in the past and it is, unfortunately, still present, because sometimes people feel that somebody having a more complex gender somehow reduces the clarity of their own binary gender. Just as you see, for example, lesbian and gay people sometimes being hostile towards bisexual people. It is that sense of being fearful of the muddying of the waters.

**Q173 Chair:** However, you think this new evidence that you have is sufficient to be able to require the Government to re-evaluate its position.

**James Morton:** We would be very happy if they were prepared to fund something more substantial, but our evidence shows that there is specific detriment. There is no evidence that we have seen that has proven that there is not and we think that it is not fair to avoid funding research and then saying that there is no evidence base, because that research has not been funded.

**Q174 Chair:** Ashley, it is your petition that is drawing this out. How would you comment?

**Ashley Reed:** Just going back a while, we have mentioned gender reassignment and the other one was transsexual, which are the terms that are used in the Gender Recognition Act and the Equality Act. Another definition that is added is “changing physiological or other attributes of sex”, and I just think this is incredibly exclusive of non-binary people, which is why this is not being recognised. However, I just want to add that from the Ministry of Justice response, what we have is

that non-binary people are not protected under the Act, and what we have now is a situation where non-binary people who could have used that Act as defence against discrimination are in a situation where they cannot do that. I want to say that all trans issues—physical and social transition, harassment and health issues—all apply to at least some non-binary people, and when non-binary people are excluded and given no option but to misgender themselves on their documentation, and now no protection, this just leads to dysphoria and other mental health issues, and discrimination is going to occur.

**Q175 Chair:** James, just moving the discussion on a little, in terms of the way that the Act works, your organisation argues for removing the expectation that allows single-sex services to discriminate against trans people. Would you include in that women's refuges?

**James Morton:** It is really important to recognise that just because somebody might need slightly different provision or might have some additional complexities about being included in a service, that should not be reason for not trying to include them or for treating them worse. The exception, as currently drawn, effectively has no limit. You could be decades transitioned, you could be fully integrated and you could still be turned away at your moment of need from a refuge or from a rape crisis service. It boils down to whether or not you really see trans women as women. If you see a trans woman as a woman, then, just like a very butch lesbian woman or a woman with a severe mental illness or a Muslim woman in a burqa might be perceived as difficult to integrate or might receive a negative reaction from other service users, you would not turn them away. You would work to educate, you would work to support and you would work to try to make sure that that service could be accessed by them, and that is really important. It is also important that we recognise that this is a small number of people, it is not going to overwhelm a service. There are services, such as rape crisis services and women's refuges, that are trans-inclusive successfully and have not found it impossible to do. They have done it very successfully, so why can others not? It needs to be looked at and, yes, there might be some situations and very limited situations where you might have to treat someone differently, but they should not be treated worse.

**Q176 Chair:** I have to say the evidence that we have had is overwhelmingly that organisations do want to be inclusive, but it was important to get your thoughts on that. Ashley, were you trying to come in there?

**Ashley Reed:** In gendered refuge centres, it is worth noting that trans people will often be turned away from ones that are protected for either gender, so a trans woman could be rejected from a women's shelter but would also be rejected from a men's shelter. Were they to go to a men's shelter, they would be at serious risk of harassment or physical or verbal abuse, and that would be a major onset of dysphoria.

**Peter Dunne:** Two very quick things: the overwhelming evidence, both Europe-wide and also in the United Kingdom, shows that trans people experience particularly high levels of violence, harassment and abuse. Services that are provided to vulnerable individuals are services that the trans community, perhaps more than the cis community, needs, and so exclusion is particularly detrimental.

This is my area of research at the moment, and all of the research seems to be saying that if you are able to put in place robust frameworks that explain to people everyone's presence in the

particular shelter and that everyone knows all of the ground rules and has a clear understanding, these facilities work perfectly well and inclusion in no way detracts from the ability of individuals to use the services and their experience.

**Q177 Chair:** This is the final question; I feel that there are lots of other things I would like to ask, but time is ticking on. Again, in a great deal of the evidence we have seen people have highlighted some of the problems of facilities being available to trans people, particularly day-to-day facilities such as toilets, sports facilities and, indeed, sports organisations. Across the board, just a quick response from each of you: how do you think that access to those sorts of basic facilities might be improved in the future?

**Peter Dunne:** The only thing I would say is that the Act talks about legitimate aims and proportionality, and too often, historically, we have invoked questionable aims and questionable assumptions about trans individuals and their behaviour. The word “predator” has often been used. If you were subjected to many of these proportionate, supposedly legitimate aims, I think that we would come to a very different conclusion. I would very much encourage a real understanding of why we are doing this; very often that is taken as an assumption.

**Ashley Reed:** It is really important for gender-neutral toilets especially to be available for the inclusion of non-binary people and for the safety of all trans people. A lot of trans people are going to be harassed in both male and female bathrooms regardless of their gender identity. I also think that while the only ground for removing someone from a bathroom would be disruption, ultimately that is going to be down to the owner’s discretion and that needs to be much clearer: that you cannot remove someone from a bathroom on the grounds that they are trans.

**James Morton:** I agree with Ashley. What we noted with our survey was that the majority of trans people, and also the majority of non-binary people within that, said that they avoided using public transport, they avoided using public toilets, and they avoided using gyms and changing facilities out of the fear of harassment. Enabling there to be individual cubicles and privacy benefits everyone, not just trans people. I have never met anybody who wanted to be more visible in the changing area or to have a narrower cubicle partition in a toilet. The more we move to a situation where everyone has privacy and we are not obsessed about what gender they are, the better.

**Karen Harvey:** Specifically in the workplace and in terms of the Civil service, a gender has recommended that the services are used appropriate to the role that the person is presenting in. It is fully accepted that there are sometimes issues, but in general terms that is how it is in the workplace in the Civil service. Outside of the Civil service it is a huge problem, especially when you get into social areas such as pubs and clubs and things like that. I really do not have an answer for that one.

**Q178 Chair:** Thank you all for your time today. I am so sorry that we have overrun, but I did want to give us the opportunity to thoroughly question you in these areas. If there is anything else you would like to talk to us about that you have not had the chance to cover today, do drop us an email and we would be delighted to get that. Again, on behalf of the whole Committee, thank you so much for coming in today. We really value your time and your expertise. Thank you.

## Examination of Witnesses

*Witnesses:* **Christie Elan-Cane**, Non-Gendered campaigner, and **Sue Pascoe** gave evidence.

**Q179 Chair:** Thank you very much, and can I apologise for our late running? We may have another individual coming to give evidence as well; they have been delayed in the traffic. On behalf of the Committee, can I thank you for coming along today and for giving your time and your expertise to the inquiry that we are holding? Could I ask you to just introduce yourselves with your name and your organisation before we start?

**Sue Pascoe:** My name is Sue Pascoe and I am representing myself.

**Christie Elan-Cane:** My name is Christie Elan-Cane and I run a campaign called Non-Gendered, Fighting for Legal Recognition. I have been working for more than 20 years to try to establish a third space outside the gendered societal structure. I have been involved in the development of the trans equality action plan a few years ago, and it was through my campaign that there was a recent series of Early Day Motions tabled in Parliament. The most recent one attracted the support of 80 MPs. I wish that I had been on the earlier panel, because some of the things regarding “X” passports I could have explained. I have been trying to get an “X” passport for several years and am currently in the process of a preliminary pre-action protocol of taking legal action to try to get my passport changed to an “X” passport.

**Chair:** I am sure we can cover off some of those issues, if you would like to, in this session as well.

**Q180 Ben Howlett:** Thank you ever so much for giving up your time to come in today. I thought it would be a warm-up question to ask about the good aspects and the bad aspects of being a trans person in the UK today. Sue, would you like to start?

**Sue Pascoe:** I am 55 now, and it took me until I was 54 years old to come out and have the confidence to lose pretty much everything in my life to be myself. I had to wait until my father and my mother had died, and divorce freed me from my duties to my wife, and then I could start to look at being myself. I told my wife before we were married that I had a feminine side to me, but she did not want it in our marriage and that became very difficult. I hid myself as Sue most of my adult life. I was made fun of when I grew up, and I knew with pretty much certainty that if I tried to come out when I was a partner in PricewaterhouseCoopers or in Andersen, that would probably be the end of my career. I had to wait for the latter part of my life to make those transitions.

It is interesting. I made my decision to become permanently Sue in July last year, and I thought that I would lose all my family, my friends, my business and my farm, be ostracised by my friends, and need to go abroad for an operation and then start a new life with a new identity. That was the basis upon which I decided to become Sue. Amazingly, it has not really been like that. Most people who perhaps have not been in my life have been fantastic and that is the

general response I get—former work colleagues. It has tended to be people who have been very close to me—knew me as Graham and now see me as Sue—that find it quite hard to make that mental leap, but that will come with time. What is clear is that going back into the workplace, which I am going to try to do—I just do not know how I am going to be responded to, but I thank you for giving me the opportunity to speak today. Graham never got to address Parliament, so this is one up for Sue.

**Q181 Ben Howlett:** Sue, to take up one of the points you raised about how your friends have been able to accept you as Sue now, were they able to access support networks as well? We have discussed an awful lot about individuals being able to access support networks, but do you have any examples of how the community around you have been able to access help and support at all?

**Sue Pascoe:** What is interesting is that as the LGB community has got more accepted in general society, coming out as trans seems to just be an explosion that has happened, both in the press and in an understanding of what it means. When I grew up, many people used to say I was a pervert: I wore female clothing, so there must be something weird and sexual that was going on. Even when I told my close friends that I was going to transition, they said to me, “Make sure that you make a decision to go all the way through, because if you do not people will just call you a pervert.” I think as people get to know me as an individual, I am just Sue now, and I am comfortable in my own skin, and I am complete and at peace with myself in a way that I was not. I lived a lie for 54 years, pretending to be Graham when inside I was dying. Now I am authentic with other people and that is what people recognise. There is a very tiny minority of people—“white van man” would be a good example—who shout strange things out of windows, but other than that I have been pleasantly surprised how nice everybody has been.

**Q182 Ben Howlett:** Very good. Christie, what about yourself?

**Christie Elan-Cane:** Good and bad. I have identified as non-gendered now for more than 20 years. I am 58, so I am the oldest one on this panel. I cannot remember ever identifying within a gendered role, except there were just no words to describe how I was feeling when I decided that what I needed to do was to physically transition. I completed my physical transition not through the gender clinics but by arranging my own treatment and funding myself. I did not have a clue why I was doing it. I just knew that I had to do something. It was after I completed that transition that everything seemed to fall into place. That journey to get surgery, from the point that I started to do something about it when I was 26, took five years and then the whole process of going through that took two years, so I was 33 when I was able to accept my identity. I thought then that I had passed the most difficult bit, and I did not know what the next 20 years would have in store: that was trying to find a place for myself where, at that time, in 1991, 1992, the things that I was experiencing were beyond the comprehension of most people and society.

I began slowly to come out to my own circle of friends and, at the time, I had quite a wide circle of friends across all categories and it was fine. I did not lose any friends. I would say that was the best, most positive time in my life. There was a situation about coming out at work, which I knew would be difficult, because I knew that they would not be able to comprehend what I was saying. There was the situation that I was forced to compromise and deny my identity when I applied for documentation. Every piece of documentation was telling me that I was something

that I knew myself not to be. The consequence of coming out at work was that I ended up having to leave my job and, since then, I have found it very, very difficult to get work. That has left me, literally, hundreds of thousands of pounds worse off than if I had never disclosed my identity, if I had carried on leading a double life, which I would say is pretty detrimental. I am still not able to get any of the documentation that I need.

Personally, within myself, I have never regretted my surgery. I have never regretted coming out, although I do regret the consequences. I think it is because of the work that I have been doing for all these years and getting non-gendered into the trans equality action plan, although I was very disappointed that, in the end, it was all plan and no action, because nothing resulted from it, but at least it got things off the ground and something significant happened. It was after that that things started to change, so in the last 20 years, I would say that there has been far more bad than there has been good. However, at the same time, in my private life I have a wonderful partner, although we cannot get married, because I would need to deny my identity in order to register our partnership and I do not have the documentation. Neither of us wants us to get married under those terms, but I have been in a stable partnership and my personal life is very, very good.

**Q183 Angela Crawley:** This section is on your experiences of the healthcare system. Are there any areas where you would like to see things improve from your own experience, and are there any areas where you think the health service has worked well?

**Christie Elan-Cane:** Are you referring to transitioning or general healthcare?

**Angela Crawley:** I appreciate you have very different experiences, so perhaps just from your own experience, what areas of the healthcare system do you feel have been beneficial? Are there areas where the healthcare system could be improved, from your own individual experience?

**Christie Elan-Cane:** When I started on my personal journey and my surgery, I saw a number of different surgeons where I had to pay a fee, and they were not cheap. The first one I went to see, after taking my fee, said, "I am not doing this, because it is mutilation". It took about half a dozen or so different surgeons before I found the right one that I was confident understood what I wanted to do, what I wanted him to do and who had the right credentials. I had seen some along the way who were prepared, but I felt that I would be placing my own safety at risk by going through them.

I feel that I have had to largely educate the health professionals I have come into contact with. I have never come into contact with a gender identity clinic. I do not take hormones and that is through choice; I have never felt the need to. For some people who are non-gendered, hormones do seem to be a significant thing, but my personal experience is that they are not, so I have never had to come into contact with the gender identity clinics. My personal experience is really as a patient for unrelated things, and I have found, more recently, it seems to be improving, although there are still gender-specific services where I feel that there could be a lot more sensitivity. Leading up to the trans equality action plan, I did raise the issue of gender-neutral toilets, which, at the time, seemed to be beyond the scope of anyone to do anything about. Now I am very pleased that that is being discussed, but with the bathroom facilities inevitably I have to use the disabled, and that is in the healthcare services as well. In fact, at my most recent visit to a hospital I did need to use the bathroom and I found the disabled was locked. I ended up

feeling that I had to use the gendered service, because being obviously non-disabled, I did not feel comfortable going and asking for the key and I did not really see why I had to. Also, I just could not wait, so I ended up having to use the gendered bathrooms. I find that most people now seem to be fine, but that is only very recent. I was constantly misgendered. I say my title is “Pr”. I am pleased to see the “Mx” prefix has been adopted, but I have been “Pr” for the last 20 years, so I am going to stay “Pr”. They did change my title to “Mx” and I had them change it back to “Pr”, but at least it shows that the impetus was there, that they are trying to do the right thing.

This is not my personal experience, but I am hearing things about people in the situation that I was in 20 to 30 years ago, who are desperately wanting surgery but they do not fit the criteria of the trans man and trans woman and want to change into one of the accepted male or female gendered roles, and they are having horrendous experiences. I was able to bypass that system, but some people are not so lucky and those people suffer.

**Q184 Angela Crawley:** Okay, thank you for that. Sue, your experience is different again. You chose to go abroad to seek medical services, so do you want to discuss your own experiences?

**Sue Pascoe:** I went to see my GP on 14 March 2014 and he was hugely sympathetic. That was a huge thing for me to do: for the first time to go to a professional and say that I wanted to change. Within a week he had referred me to the Leeds gender identity clinic. I had the letter in my hand and I was all excited. I rang the Leeds gender identity clinic and spoke to the admissions nurse. I was expecting a few weeks, maybe a few months, and she told me the first appointment they had was in two and a half years’ time. I was gutted. She then told me that even when I had waited two and a half years, it was going to be at least two, possibly three, possibly four years beyond that before getting an operation. That was going to make me 59 or 60, and, coming out in later life, every day is precious. Quite frankly, I felt suicidal when I got that news.

I picked the phone back up and spoke to them and they explained some of the ways that I might accelerate it, like going abroad. I explored going to Thailand, because I thought that that was the place where it was recognised that the expertise was, but it did not turn out like that. I went back to my GP and he referred me privately to the former head of the Leeds gender identity clinic, Dr Beaini and to the then current endocrinologist at the centre. Between the two of them that cost me £500, and I got my gender dysphoria diagnosis and my prescription for hormones. I then went back to my GP, and my GP monitored my bloods and took the private prescription and turned it into an NHS prescription. Many people do not even know that route exists, and are sitting waiting for years when they could be on the hormones and they could be transitioning; they just need to know how to work the system.

The next thing was whether I was going to try to do it privately in the UK. I tried to get my health insurance to pay. As a former partner in PricewaterhouseCoopers I have a very extensive private medical insurance, and it surprised me enormously to find that they would not cover any aspect of anything to do with gender dysphoria. If I could suggest something that the Committee might wish to consider, I am not sure that it is equality to have insurance policies that discriminate against certain types of medical treatment. Effectively, I was stopped from getting that medical treatment in the UK. Sixty per cent of the Fortune 500 companies have medical insurance covering sex reassignment surgery, so I am currently fighting with the Ombudsman to try to get that money repaid.

**Q185 Chair:** Let me just say that obviously if something is before the court, it is not appropriate for us to discuss that, because it might be sub judice. If you could perhaps not talk about anything that is before the court at the moment.

**Sue Pascoe:** There is no legal action being taken.

**Chair:** Okay, thank you.

**Sue Pascoe:** It is just going to the Ombudsman.

**Chair:** Right.

**Sue Pascoe:** Once that was stopped and I knew that there was such a long delay in the NHS, I got to hear about India, which has the largest transgender community in the world; it has been there for thousands of years. It is the law of big numbers; a population of 1.2 billion gives you a very large number of transgender people, who bless the sexual vitality of Hindu weddings, so they are very well respected in that community and, in the old days, used to be the harem-keepers—the eunuchs. Anyway, I decided to go to India and explore getting the operation.

I was referred to a gentleman who was described to me as the best gender surgeon in India. I had my breasts done, I had my face operated on, and I had advanced hormone treatment and advanced gender correction surgery. All of that took me less than a year. It was 14 March when I went to my GP and 8 March 2015 was my birthday. Quite frankly, if I had died the next day it would have been worth it, because I am complete and I am at peace with myself. In India, they have a completely different philosophy from the NHS here in the UK, which seems to be one of delay, resource restrictions and putting a mental stability condition that is extremely hard to meet. Conversely, in India, they work very hard in making sure that they have the right diagnosis of gender dysphoria: two psychiatrists, a magistrate; if there is a marriage involved, you have to have approval from the wife. Once that has happened, they then try to get everything done as quickly as possible to ease the social transitioning. All my treatment was in line with Indian laws and regulations and safeguards, but it was also entirely in line with the World Health Organization's standards of care for transgender patients, which is a synthesis of all the best practices around the world and is significantly different from the NHS guidelines.

I am very pleased with what happened and the reality is I had no choice. If I had had to wait for two and a half years to five years, I would not have made it. I know so many transgender people who, at one point in their lives, have attempted suicide. The figures are shocking: between 30% and 70%, dependent upon what other issues you face. I sit in a category that has a 70% suicide rate, so I am very pleased to be here. I did whatever it took to get my operation done in a timely basis to go forward with my life. I am still waiting for my first assessment appointment with the NHS and, bizarrely, despite the fact that I am fully transitioned and have had all my operations, I still cannot access electrolysis or speech therapy, because I have not had my first assessment and I cannot get into the clinical pathway. My GP is going to the GP commissioners, trying to get the funding so I can go direct.

**Q186 Angela Crawley:** On that basis, obviously you now present as a trans woman to health services. In both cases, have you had any issues in terms of accessing health services, in your

present position?

**Christie Elan-Cane:** At the moment, I do not have any major health issues, but I would always try to go private, just to bypass the situations, if I can. I was ill a few years ago and, at that time, I was fortunate to be covered privately. It was nothing to do with my surgery or my transition. I must say that even now, if there was anything that I felt could be perceived as trans-related, I would still try to avoid, because that fear is still there, even though I have not had the negative issues in the healthcare services recently. I do feel that sometimes, just because the systems are not geared up to recognise anything other than “M” or “F”, although that is changing. I have raised that with my previous GP when I had an ongoing issue with an automated sign-in facility that asked if you were male or female, which I refused to use. I would go to the reception and say that I could not use this system and, in the end, they did get it changed and upgraded so that you could enter your date of birth instead. I found that level of support from my local practice was excellent, but then it kept breaking down and every time it broke down it seemed to divert back to how it was again. Therefore, if I had not been to the GP for several months, I would go back and find that the automated system was still asking me whether I am male or female, so it is a constant thing with a constant barrier, and that is what I am always conscious of everywhere. I would have to feel pretty ill before I would report a problem, because I would just rather get on with things than have that situation.

**Q187 Angela Crawley:** In your experience, would it be beneficial if we were to remove gender markers in most occasions of life? Would that make your experience better?

**Christie Elan-Cane:** I differ slightly from what I heard before, because I feel that in certain situations, like banking and the commercial areas, there is just no need for gender and they should just remove the question completely. As a non-gendered person and trying to make people aware and to educate society and end the invisibility, for things like passports I would rather have an “X” than have nothing, and the healthcare services does come into that, because there will always be the assumption that you are male or female, and they will make that assumption. However, I can also see why people would prefer the question to be removed. If it is going to cause embarrassment in the healthcare services, I suppose I would prefer that the question was not there, but if I had to choose, I would rather have a third option. I am aware that other people might feel differently, but from my own personal perspective, I would rather have that option to be able to record my identity, to raise the profile of non-gendered issues.

I have recently registered with a new GP, so I am having to start all that process over again, but I have found that they are quite receptive, so I think that in the last few years something must have got through. Certainly at my old GP practice there was a third option of “Indeterminate”, so I was able to use that. It was not “X”; it was “I”. Some people read it as “Intersex”, but it was for “Indeterminate or non-specified”. My personal preference would be to have that over having nothing at all, but I would prefer to have nothing at all than to be misgendered and forced to declare as something that I am not, just for the sake of accessing decent healthcare.

**Chair:** I would be interested in Sue’s answer to that as well.

**Sue Pascoe:** When I asked my GP to change the automated system so that I did not have to press the “Male” button, that happened within a day, but he told me that my NHS record would not

change and my medical number would not change, and he apologised for that. We then worked on getting my passport as soon as possible. It took me three months to get my passport, and that needed a letter from my GP and a letter from my psychiatrist, basically saying that I had permanently transitioned to my chosen gender and that I was mentally stable. I drove up to Durham, paid £80, gave the two letters over and, a few days later, my female passport came.

Quite frankly, I do not understand why we have a gender recognition process at all. What is wrong with a passport? That is what everybody else has. Why do transgender people have to have a completely different process and a two-year timeline? If you are married, you cannot get one anyway. The only thing that it practically does different from the passport is change your birth certificate and change your tax records and your pension status. Well, for day-to-day life, that really is not that important, but the passport is. It is a door-opener to services and if you go into a shop and somebody refuses to serve you, I just get my passport out and then people apologise.

Once I had my passport, my medical records got changed. It was really quite nice to get a letter from the NHS asking if I wanted to have a cervical cancer test—bizarre. One of the worst experiences, though, was when I came back from India having had my operation. I needed to have some assistance with dilation and I was sent by my GP for two days into Leeds General Infirmary and despite my medical records being changed, despite everything at my GP being female, because I had been to the hospital as Graham they had me in as male. They refused to change it in the system and here I was, I had had my operation and I was really upset, and I argued very strongly about being discharged with male papers. Anyway, that caused quite a stir and then all my records everywhere in the system were changed to female, and I have never had any problem since.

**Q188 Ben Howlett:** There was something you said there, Sue, in relation to you going into a shop and being refused to be served. Is that something that has happened to you a number of times or is that just an anecdote?

**Sue Pascoe:** My presentation as a woman improves as my transition happens. When I first was going out, I was more obviously of a male face and I was refused half a dozen times. In one shop they said, “You can buy the goods, but you cannot try them on.” Another one was, “This is a female shop. Again, you can buy the goods without trying them on, and some of the assistants were really upset with what was going down and they stepped in. Now, as soon as I get my passport out, they do not say anything. I have not had that experience now for about six months.

Perhaps I can just say one thing about perception. I walked around the streets for months believing that everybody thought I was a man, and I know that many transgender people have the same sort of experience. A friend of mine said, “I am going to stop the next three people who walk past you and I am going to ask them what they think”, so he stopped the first person and said, “Why did you look at Sue?” and he said, “Because Sue’s a tall person”. The next one he asked, the lady said, “Because Sue is wearing a nice dress”. The next lady said, “Because Sue is an attractive woman”, and here I was, paranoid that everybody thought I was a man, so a lot of the issues, for me, are how I react to the world, not necessarily how other people react to me. The more confident I am, the more natural I am, the easier everybody deals with me.

**Q189 Chair:** Part of that acceptance can come through media and press portrayal. What is your view of the way that non-binary and transgender people are portrayed in the media now? Is it something that causes you concern or not?

**Christie Elan-Cane:** Can I just say I do not recognise that term? I have always used “non-gendered”, on the basis that there have been a number of terms over the years and on the basis that there are two recognised, established genders, male and female, identifying as neither, I have always identified as non-gendered. I feel it is a better term and, if you do not mind, that is the one I prefer to be addressed by.

First of all, when this issue is portrayed, it is as a young person’s issue. As someone who has been working all this time—I am not a young person—I find that incredibly frustrating. There is no reason why it should be portrayed as a young person’s issue. It is not something that one grows out of; it is not a phase, and I feel that that that trivialises the issue. It is certainly not a lifestyle choice.

With regard to trans people in the media, as someone who was outed in the media years ago, I did not know what I was letting myself in for, which sounds a bit naïve now, but I had no idea about the impact that would have on my life. You think that you are in control, but you very quickly lose control and they will portray you any way they want until you do not recognise that person. I was not really portrayed as trans, because it was two decades ago and then the connection between non-gendered and trans had not really been established. The first trans person I can remember in the media was a soap character, Hayley Cropper. At first, it was a revelation, but I found the character was very one-dimensional. It was this nice, inoffensive person. It felt like less of a real person than some of the other soap characters. I understand that now there are more. I have not watched any of them, but there are more trans characters appearing in soaps, so it will be interesting to see how they are portrayed. With factual portrayal, I do not watch a great deal of television now apart from the news, but I keep hearing about different things. It seems to be getting better than it was, but I am sure that during the day there is still the freak-show element, and I am sure that that has not gone away, where trans people are essentially just brought there to air their dirty linen for public ridicule. That was how it was 20 years ago and I am not sure how much that has changed.

I know that there has been a lot of work going on to try to change perspective, and there is certainly more education, but I have found really that unless you are a young person the media are not interested in non-gendered issues. They lost interest in me when they realised, 20 years ago, that I had something significant to say, rather than just someone who they could put there and say, “Look at that person”. I feel that it is portrayed as too much of a young person’s issue. I feel that it should be portrayed as something that affects everybody. There are not more people coming out because of the social difficulty, the things that I have described: that you cannot get the right documentation; that it is beyond people’s comprehension; that effectively you are out there on your own, until the advent of the internet when people started to realise that there were more of us. I always felt that I could not possibly be the only person, but I did not really have the opportunity to meet that many people, and there was no support. I think there was one trans group at the time, but definitely not supportive of this issue, which is why we are still having a lot of these discussions today. I was contacted by someone in their 50s a few weeks ago who

had only just come out. This person had a family and children, but said, “It is something I have lived with all my life”. It is something that is hidden, because we are invisible, but it does not mean that we are not here.

**Q190 Chair:** Sue, would you add anything?

**Sue Pascoe:** I have deliberately gone to address the media, and I have done that for two very specific reasons. One is that, for the rest of my life, one of the things that I would really like to do is try to help other transgender people; I am in the process of establishing a charity called Gender Care UK to try to get donations to help pay for people’s operations and get past the pragmatic problems that we have in the NHS. I was looking for a platform to get some publicity and talk about transgender issues and Gender Care UK. I arranged a press release with a media consultant and ended up with press all over the world. I did not really like being called a “foxy lady” in the *Sun*; I quite liked being called a “dead ringer” for Caitlyn Jenner in the *Mirror*, but I took control of it. I approved the press release before it went out and, to date, everything that has happened around me has been hugely positive.

Last night, there was a programme called *Trans Lovers* on Channel 4, which was just appalling, making out trans people were all escorts and all weirdos and sex perverts, sensationalising it. Conversely, we have had things like *Boy Meets Girl*, which is an utterly superb, sensitive programme done by the BBC. I have been involved with a pageant called Miss Transgender UK that is being filmed by Minnow Films and is due to be released on 30 November, and I just hope that it will be treated sensitively.

On the whole, there seems to be a sea-change in both the volume and the sensitivity with which things have been treated in the press, and, for me, it is very cathartic. After 54 years of hiding who I really was inside, now to be able to talk to anybody about being Sue—I am very comfortable with that.

**Q191 Mrs Drummond:** We have moved on a bit from what I was going to ask. I want to follow up one of Angela’s questions, but it is about perception as well. Do you feel, in the NHS, it is a generation thing? Are younger doctors perhaps more sympathetic? Do you think they have enough training? Probably Christie is better to answer this one, because she has done it for longer, but please contribute, Sue, if you wish.

**Christie Elan-Cane:** You mean “per”; the pronoun is “per”, can I just say?

**Mrs Drummond:** Sorry.

**Christie Elan-Cane:** My GP is about my age and so was my previous GP. Quite honestly, I have not noticed a difference with the age. Sometimes there is an older person who will understand and sometimes there is a younger person who you might have to explain something to. Most of the doctors that I have seen have tended to be old, because I will ask for the most experienced one in the practice. To be quite honest, I have not noticed that there is any difference in the age of the doctor. Maybe if I had been a younger person and had to visit the GP more, maybe that would have been different. Possibly it is because I am also that same age that they would not question it. If I was a younger person, it might be quite different.

**Q192 Mrs Drummond:** I am just wondering, if there is now much more recognition; they are doing some training as well, but you have not noticed.

**Christie Elan-Cane:** GIRES, the Gender Identity Research and Education Society, has put out some online training. I think it is available on the website of one of the GPs' organisations. They go around and they certainly educate about the issues that I talk about of the experience of trans people in healthcare. I think Terry might have been on one of the earlier panels here. They would be the people to ask, because they go in and speak to the healthcare specialists. I do not know if that has anything to do with the improvement that I have noticed in the last few years when I have had to interact with healthcare services. Ironically, among all the different departments and public services, probably healthcare is ahead of the others, but that possibly is saying more about the others than about healthcare.

**Q193 Angela Crawley:** Just to follow up on a point you made earlier, which I thought was really interesting. You made the point about non-gendered or non-binary being presented as a young person's "phase". Why do you think that the media has chosen to portray it in such a way rather than as something that can happen at any age?

**Christie Elan-Cane:** I do not know that it is the media that are necessarily portraying it as a phase. It is just that there seems to be this obsession with youth. When non-gendered issues ever get raised, it is focused on the explosion of younger people who are presenting and not prepared to be constrained or forced into the same straitjacket, for want of a better word, in the reassignment services that older trans people had to be. I do not want to imply that that is a bad thing, but there seems to be this obsession that it is a young person's issue, which it is not. I think that some people might try to put across that it is a young person's issue in a way that is sort of trivialising it, with the implication that it could be a phase. I am sure that with most people it is not a phase any more than it is a phase for someone who identifies as a trans man or a gendered trans person. Most people go through a questioning period, but having decided that you are neither male nor female, or some people prefer to define as both, in the vast majority of cases it is definitely not a phase. My main bugbear with it being portrayed as a young person's issue is that people of my generation—basically anybody over 30—have been ignored. We have been ignored all the time and now this issue is finally, finally getting recognised, but it is portrayed as a young person's issue and we are ignored all over again.

**Q194 Chair:** I am very conscious of the time, but there is one thing I have realised that I am not clear about. Can I ask what might be a final question, unless colleagues have any? I am not clear whether you have applied for gender recognition certificates, either of you.

**Christie Elan-Cane:** I would not be able to.

**Q195 Chair:** You would not be able to because there is not a non-gendered option.

**Christie Elan-Cane:** That is correct.

**Sue Pascoe:** I have not applied because I would not get one, for two reasons. One is that I only had my final divorce hearing last week and I am waiting for the decree absolute in the next few weeks. Secondly, I have done everything within a year period rather than the two years that it says in the legislation and so they would not grant me one anyway, which is bizarre really.

**Q196 Chair:** Given that neither of you has a gender recognition certificate, has that caused problems?

**Sue Pascoe:** Nothing at all; not one issue, practically.

**Christie Elan-Cane:** I have been non-gendered and since my identity is not legally recognised, I have problems anyway. I am more concerned about getting my passport and the documentation that I already have and having the provision to be able to do that. As has been alluded to today, there is a growing number of countries that now do issue “X” passports, which they can in accordance with the International Civil Aviation Organisation rules. I want to be clear that having no gender is not an option, because sex is a mandatory field and so having a gender is implicit, either male or female. However, they make the provision of “X”, which is a non-specified and an unspecified alternative. There is a history to that, which I will not go into, but it has been seized upon by trans people for a number of reasons, but mainly by people who do not identify as male or female. That is the option that I would like to see being adopted in the UK.

You did ask the earlier panel about why this has not been done here. Under the trans equality action plan, the former Identity and Passport Service, now HMPO, did conduct a review that I will say was entirely fake. There was no serious consideration given to putting “X” on the passport. It was just an exercise in doing nothing, and I think I was the first person to see the phrase two years ago about, “We see nothing detrimental in people having to apply as male or female”, not recognising our identities. I find that so offensive. Non-recognition has ruined my life. I feel a shadow of the person that I could have been if I had been able to lead a normal life. I am aware that I am in the autumn stages of my life and my whole life has just been a battle for the legitimate identity that other people can take for granted. I want dignity. I just want dignity. I want recognition. I want documentation that recognises who I am.

**Chair:** Thank you.

**Sue Pascoe:** It is really interesting that in many countries in Europe I can go and get a gender recognition certificate in those countries and then come back to the UK and you only need a year for it to become active. It is two years if you wait in this country or I can go to Ireland and get a certificate and come back. I explored all the processing in Liechtenstein, of all places, because it was easy to do and I did not need to be resident, and then I could get my GRC within a year. My problem has been that my wife has used this as a weapon against me. The legislation in India requires that if you are married you have to have the approval of the spouse and she refused to give it, even though we were in the process of divorce. I find it greatly offensive that I cannot look after my own life. My wife said that the divorce was happening. Her last words were, “I suppose I was not woman enough for you and you are going to be a better woman than me”, and has then used this all the way through to stop me getting my appropriate recognition.

**Q197 Chair:** Again, sorry, I am just conscious that there might be some sensitivities around that in terms of the court case. Look, I cannot thank you enough for your frankness today with us. It has been enormously valuable. I do not know if colleagues have any final questions just before I close I am conscious that we have overrun enormously. In that frankness you give us huge power and insight into the situation as you see it, so thank you so much for that. Can I thank you also for your submissions, which I found incredibly helpful, again, in making sure that we can be informed

about the situations that you face, and it can inform the report that we develop, bring forward and put forward to the Government? I do rather like the fact that Sue has addressed Parliament today in a way that Graham has not, so we thank Sue and we thank Christie for your time and for all of your time this morning. Thank you.

**Sue Pascoe:** Can I just say that it is great that the UK is taking the trouble to look at these issues? We only saw in Poland a few weeks ago that they did not get the legislation through, and in many other parts of the world transgender people just do not have the rights that they have here, and it is a breath of fresh air to live in a country where it is free and we are treated with respect.

**Christie Elan-Cane:** But non-gendered people are not.

**Sue Pascoe:** You are right.

**Chair:** No, and we thank you both for bringing your own individual stories here today. It has been incredibly helpful, very powerful. We all thank you. Thanks very much.