



Submission for the Universal Periodic Review of the United Kingdom by the Human Rights Council

Human rights for young transgender people in the UK (and to an extent, transgender adults) are in many ways lagging behind that of other minority groups. Transgender people represent an estimated 2% of the UK population, making them one of the smaller minority groups in the UK. Historically, the trans community has not had great access to the platforms needed to effectively express their views and describe their struggles (be that via mainstream media channels, government policy, etc.), and so they have often been ignored. However, there is an increasing visibility of trans people, and a growing understanding of the discrimination they experience as a result of their gender identity. Although there is a lack of trans-specific human rights law, and indeed a lack of trans-specific recommendations for the UK, we feel that many of the issues faced by young transgender people are covered by some of the more general articles.

The Young Transgender Centre of Excellence is a flagship project funded by BBC Children in Need, offering support, advice, advocacy and a huge range of other services to transgender people aged 0-18 across Leicester, Leicestershire and Rutland. We also work with their families, carers, and the stakeholders that they interact with (e.g. schools, colleges, GPs, social care teams etc.). Based at the Leicester LGBT Centre, we are the first project of our kind in the region and one of only a few nationally. In this submission, we will discuss the issues faced in 2016 by young trans people in relation to the relevant articles of human rights laws, and offer recommendations on how these might be resolved/improved by the UK Government.

Transgender adults receive specialist NHS care around their gender identity and medical interventions from one of seven Gender Identity Clinics (GICs). For trans people under the age of 18, however, there is only one specialist service available – the Tavistock & Portman Gender Identity Development Service (GIDS), based in London with an outreach centre in Leeds. Due partly to there being only two GIDSs, waiting times are long and are doubling year on year as demand increases. Recently, we have

been informed that the GIDS waiting list (that is, time between referral acceptance and date of first GIDS appointment) has increased to nine months.

NHS England states that no NHS service shall require patients to wait longer than 18 weeks for treatment – with the GIDS waiting time at around 36 weeks, this is in clear breach of NHS policy and is entirely unprecedented elsewhere in the NHS. NHS England has formally acknowledged that its gender identity services are failing in this regard, but has yet to take concrete actions to remedy this.

In addition to this, trans people under the age of 18 must first be referred by their GP to the Child and Adolescent Mental Health Service (CAMHS), who make their own assessment of the young person and decide whether to refer them to the GIDS. Whilst there are many good examples that we have come across regarding people's experiences with CAMHS, we have also heard cases where a CAMHS worker has refused to refer a young person on to the GIDS because they did not think that the young person was transgender. For an NHS staff member without specialist gender identity training to deny a young person the specialist support that they have every right to access seems to us to be entirely inappropriate and a contravention of article 12 of the Convention on the Rights of the Child (CRC), which states that children should have their views heard and considered seriously by public bodies. It goes against article 8 of the Human Rights Act, which states that children have the right to develop their identity. If they are denied even a first appointment with the GIDS, then how can a child be expected to best explore their gender identity?

CRC article 24 outlines that children should receive the best possible healthcare that their country can provide; based on our work and conversations with young transgender people and given the outlandish waiting times for treatments, the relative lack of provision and staff within both the GIDS and GICs, and the lack of patient choice about where that care is given (i.e. under 18s can only be treated in London, there are no GIDS/GICs in the entirety of Wales), we feel that the UK's approach to transgender-specialist healthcare hinders the development of personal identity, limits patient choices, is completely out of line with general NHS practices and is therefore in breach of both the CRC and the Human Rights Act.

Another complication in the NHS care pathway is that it is run in accordance with a 2011 interim emergency protocol on gender dysphoria. This has been due for replacement by a full protocol for some time, but there is no sign of this happening, nor is there indication as to when a new protocol might be launched. We find this entirely inadequate, especially as demand for the related NHS services is increasing so dramatically while many GPs remain unaware of what services trans people can/should have access to. We argue that this is a clear sign that the best possible healthcare that the UK can offer trans people (as required by article 24 of the CRC) is not being provided.

In response, we recommend a reduction in waiting times for all NHS gender-specialist services to within the 18-week maximum defined by NHS England. To achieve this,

there will need to be training of more gender-specialist staff and the creation of new GIDS/GICs in currently unserved areas of the UK. We also recommend that instead of separating child and adult services, it should be that there are specialist child professionals installed at each GIC. This way, adult and child services are spread more evenly throughout the country, allowing for patients to have a choice about where they receive care. Integrating the clinics in this way will also help to create smoother transition between child and adult services. We also ask that the NHS publishes its long-overdue revised protocol on gender dysphoria.

One of the main complaints that we constantly hear from the young transgender people that we work with is that it is exceedingly rare for any authorities or public bodies they interact with to have any training on how to support transgender people. In fact, there seems to be an assumption that most people will not know how to respond or act when a person discloses their trans status. This is no doubt due to the lack of visibility and understanding of the trans community in the past, and the subject of transgender identity can be a complex topic to discuss and think about – but staff of public bodies (e.g. NHS, schools, colleges, social care, etc.) are generally not required to receive specific training about trans issues in the same way that they might receive training on the other protected characteristics of the UK Equality Act 2010, such as race or disability. Article 8 of the Human Rights Act states that Government may need to support you to achieve your private life, and that is more true for young trans people than most. They face high levels of discrimination, and public bodies should know how to deal with and protect them. One should also consider article 12 of the CRC, as young trans people often complain that they are ignored or not taken seriously by staff of public bodies.

We recommend that staff of public bodies should receive mandatory training on (at least) the basics of transgender identity and best-practice advice on dealing with the issues that a transgender person might present to them.

For young transgender people under 16 years old, there are some instances where parental consent is required for them to make legal or healthcare decisions – for example, changing one's name legally by deed poll and being referred to the Tavistock & Portman GIDS. This can be problematic, though, as young trans people (including some that we work with) will sometimes be disowned by their families as a result of coming out. This is an extreme case, but it does happen. Even if a family do not go as far as to disown their trans child, they may refuse to acknowledge their child's identity and block them from taking these actions. We believe this violates a child's right to have their views considered and taken seriously under article 12 of the CRC, as well as their right to expression under article 13.

We recommend that Government should allow decisions such as these to be made by young people deemed mature enough to have the capacity to make them, in line with the universal standards on Gillick competency.

Many of the young people we work with have told us about their experiences with discrimination, often in schools and colleges, which is distressing – these young people typically spend most of their time at school or college, and if these environments are unsafe for them it has considerable impact on their wellbeing. One of the most common examples is that schools and colleges are not fulfilling their legal obligations under the Equality Act 2010 because of the individual staff's personal beliefs. This is unacceptable, and sometimes illegal – staff of public bodies are legally required to abide by the Equality Act just as much as the organisation as a whole.

Young trans people experience indirect discrimination both from CAMHS not referring them on to the GIDS, but also from schools/colleges who feel they need to “safeguard other children” from trans people. We have seen this when a trans girl asks to use the girl's toilets and changing room facilities – schools cite potential worries from other parents as a reason to stop them, despite there being no legal basis under the Equality Act 2010 to deny someone who identifies as a woman access to women-only facilities. This would qualify as “unfavourable treatment” due to the protected characteristic of gender reassignment, and is therefore illegal. Trans people who are either blocked from, or feel unable to, use the facilities in which they feel comfortable are also then put at risk to their physical health, with some of the young people we work with telling us that they often will not use the toilet outside of their home for fear of repercussions.

For the young trans people we work with, especially those with difficult home situations, they need their schools/colleges to be places where they feel safe and respected. Often, though, we hear that trans students and their requests of their schools/colleges are ignored, set aside or considered ‘inappropriate’. This manifests in a trans-exclusive environment, where students are told that they are not allowed to change their names, pronouns or wear the uniform of the gender they identify as. This goes against the idea of public bodies being required to help people to their right to private life, as well as being “unfavourable treatment” under the Equality Act 2010.

The issues here is not with absence of legislation, but the lack of clear guidelines about what young trans people are legally entitled to, along with potential conflict between personal beliefs of staff members and the services they are required to provide as part of a public body under the Equality Act. The lack of trans-specific guidelines for schools and colleges means that many institutions are either unsure of their obligations or have the ability to insinuate that they have no knowledge of how to deal with the situation. These instances are against the child's rights to non-discrimination and to have their views heard and taken seriously (articles 2 and 12 respectively of the CRC), in addition to article 14 of the Human Rights Act, concerning freedom from discrimination.

To deal with this, we recommend that the Department for Education publish clear guidelines for schools and colleges on what trans students are entitled to, as well as how they should be supporting these students more generally. This would also include closer monitoring from Ofsted on how these policies are being (or not being) enacted.

Recently we have seen severe financial cuts to Leicestershire County Council's LGBT Youth Services, leading to reduction in the availability/frequency of these services. For many young trans people, these services are vital to their mental wellbeing and their continued exploration of their gender identity. To this end, these cuts may go against the right to develop one's identity under article 8 of the Human Rights Act, and again comes under the Government's responsibility to help young trans people enjoy their rights

While we understand that the Government's current austerity and cuts programme has greatly reduced available funding, we would ask local authorities to consider reallocating funding back into the LGBT youth services that provide such an essential lifeline to young trans people.

Legal recognition of gender is an issue on which the UK is lagging behind many countries around the world. A number of countries have recently altered their laws to bring in a procedure of gender self-declaration, in which a given person can alter their legal gender marker through (typically) a simple application process. However, the UK still currently uses the Gender Recognition Certificate (GRC) scheme, which is costly, long-winded and widely perceived as unfair. To acquire a GRC, you must meet the following criteria:

- Be aged 18 or over
- Have a diagnosis of gender dysphoria
- Have lived permanently in your 'acquired gender' in the UK for at least 2 years
- You intend to live in your acquired gender for the rest of your life
- You are unmarried (married people must apply for an interim certificate)

If these criteria apply, you can file an application for a GRC; the fee for this is £140. The Gender Recognition Panel then assess the evidence provided by GPs and GICs and decide whether the applicant will be issued with a GRC. This evidence includes the GP's diagnosis of gender dysphoria, as well as a GIC statement regarding the applicant's treatment history (i.e. hormone replacement therapy, gender reassignment surgeries).

For trans people, this system is outdated, unjust and ineffectual. Being required to live full-time in your acquired gender before granting legal recognition of that gender is, in our opinion, deeply unfair and potentially unsafe for such a person – for example, there are currently many issues around the provision of single-sex services (such as crisis shelters) to trans people without legal gender recognition. Gaining a GRC also requires you to have entered the NHS care pathway, be diagnosed with gender dysphoria, and undergo hormone replacement therapy, *none* of which is necessary for a person to be a transgender, and indeed contributes to the historical and continued pathologising of trans identities. The £140 fee is a definite barrier to placing applications – trans people are often more economically vulnerable than most – with many never applying for legal

recognition simply because of the cost. The idea that access to one's legal gender is granted or denied by a group of people who will never meet the applicant and have no personal experience of them, just a series of reports from doctors and GPs, is particularly unfair. A person's gender identity can only be truly known by themselves, and the NHS's pathologised and simplistic understanding of gender is not fit for purpose in this regard. Specifically, for young trans people, they cannot access this process, given that applicants must be at least 18 years old. Thus, there are no legal ways by which a child in the UK can have their gender marker changed. In our opinion this is an especially cruel and unnecessary side to the GRC system, and goes against article 8 of the CRC, which states that children have the right to an identity and that governments should respect this right.

We recommend the introduction of a gender self-declaration model, similar to that pledged to be introduced in Scotland, which removes the barriers described above. This would ideally extend to 16 and 17 year olds, with younger children being able to apply with parental consent or in accordance with Gillick principles. It would also include provision for identification as a non-binary gender (i.e. not male or female), something not currently recognised by UK law in any way. The Government should include non-binary genders when considering the training we recommend for public bodies, as well as raising general awareness of these identities.

Clearly, the Government has a long way to go in its efforts to tackle discrimination and inequality for all citizens, especially young trans people. It is also falling short of the 2012 recommendation to legislate protection of children's rights in line with the CRC and to prevent exclusion and discrimination in education.

Thank you for considering our submission. We hope the issues raised can be addressed in the Human Rights Council's final report.