

## GRWG Minutes & Updates

### 28 June 2018 – Update

- Updated legal advice received (saved in the shared [folder](#))
- Elizabeth P meeting GEO legal director next week
- S40(2) Personal has reviewed website content relating to 'trans' and deleted one page as agreed, and will also review content containing keywords 'sex' and 'gender'
- Responded to correspondence from stakeholders including FPW, and in relation to our response to the Scottish Government's consultation on the GRA
- S40(2) Personal and S40(2) Personal advised the Education Authority for Northern Ireland on their schools guidance, following a request from them
- Working group email list set up (S40(2) Personal, I've requested that ICT add you)
- S40(2) Personal information and S40(2) Personal met to plan a potential meeting with stakeholder S40(2) Personal information
- S40(2) Personal information and S40(2) Personal information will be attending the launch of the Government's LGBT Action Plan on 3<sup>rd</sup> July
- Prioritisation Group are discussing two relevant issues: supporting the YHA with its trans policy, S31 Law enforcement

We've got a working group meeting booked in for next Wednesday, 3-4pm. Can I suggest that following draft agenda? Let me know if there's anything else you want to add and who would like to chair.

- Workshop to agree handling plan (saved in the folder) – S40(2) Personal
- Potential publication of the legal advice (discussed at the first meeting) – S40(2), do you want to lead this?
- Co-ordinating our responses to stakeholders – S40(2) Personal
- Future meetings (frequency, agendas) – all

### 4 July 2018

#### Actions are:

All to update the correspondence log to keep track of incoming and outgoing inquiries on this issue. Log found here: [G:\EHRC](#)

## General\Gender reassignment working group 2018 – all

General support from having a handling plan to underpin future comms/correspondence in this area. Recognition from the legal team that where we receive specific enquiries with challenging issues we may still need to seek legal advice on a case-by-case basis (recognition of the difficulty of asking for legal advice on abstract issues which may arise in the future, without real-life scenarios). S40(2) Personal Information to progress in developing the handling plan – S40(2) Personal Information

Narrative. In addition to the handling plan, it was felt we needed a topline policy narrative. This could sit on our website to allow us to direct lower level concerns and inquiries to (such as those raised by members of the public via Twitter). This could also be used to develop comms key messages on our approach to dealing with trans issues. Melanie to share key points for inclusion. S40(2) Personal Information to draft – **Melanie** S40(2) Personal Information S40(2) Personal Information **to notify web team.**

Internal comms note required to make colleagues aware of the heightened sensitivities around trans issues, to flag particularly the use of gender and sex in emails and documents and to ask colleagues to share any issues and concerns with the gender recognition working group – S40(2) Personal Information

S40(2) Personal Information to request clarification on use of gender/sex for inclusion in the style-guide on the intranet – S40(2) Personal Information

S40(2) Personal to pick-up with correspondence to make sure they're happy with the system of sharing all incoming inquiries which come through them via S40(2) Personal and ccing S40(2) Personal in – S40(2) Personal informatio

GRA consultation response. S40(2) Personal to review and pull out points which require a legal response. S40(2) Personal to coordinate response to other points in the document – S40(2) Personal **to conduct initial review and liaise with** S40(2) Personal **to coordinate response**

Stakeholder listening exercise to inform GRA consultation response.

S40(2) Personal to put together one-page proposal for discussion at next meeting

S40(2) Personal

S40(2) Personal information – S40(2) Personal to coordinate meeting with her, S40(2) Personal and Andrea. Melanie has indicated that she's happy to attend, but doesn't need to be there. (Post meeting suggestion – S40(2) Personal suggests that this be badged as part of the 'listening exercise' around the GRA consultation and that we share with S40(2) Personal other organisations which we are speaking with to inform our views). – S40(2) Personal information

Website review. Pages relating to Trans issues in particular have been reviewed and amended. A full review of all mentions of sex and gender on the external website is being conducted with a view to coming back with recommendations by the end of this week – S40(2) Personal **coordinating with input from** S40(2) Personal **who will support in directing specific**

**queries to legal etc.**

Meeting in for next week. Meetings to be scheduled every two weeks from now on – S40(2) Personal

Commitment to keep guidance for schools as a standing item on the agenda for future meetings and ensure that S40(2) Personal is included in the working group – S40(2) Personal  
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**To note:**

Decision not to seek to amend legal guidance to make it suitable for publication and to proceed as outlined above with the publication of a high level policy narrative.

S40(2) Personal is in contact with Girl Guiding UK following the legal advice received. We have not had a response from Fair Play for Women since responding on 20/06/18

S40(2) Personal is engaging with Women's Rights organisations on a regular basis and attending an event where she will share a platform with them in two weeks. A steer on what she can and can't say in relation to trans is required.

Philippa York video being shared over social media today (Thursday) to mark Pride.

View that Government comms on this have struck a good note in accepting that there are valid views on both sides of the debate but in affirming that its actions in advancing rights for one group does not mean eroding the rights of another.

## 10 July 2018

### 1. Position paper

**Action:** those who received the original email from S40(2) Personal to respond ASAP. S40(2) Personal to include S40(2) in the distribution.

### 2. GRA consultation response

**Action:** S40(2) Personal to draft a project plan with input from S40(2) Personal, including identifying areas where we would like input from stakeholders. S40(2) Personal to circulate the minutes of a previous EG meeting as which relevant trans issues were discussed, for information.

**To note:** Our response will be informed by the listening exercise with stakeholders, likely to be held in August. We will aim to publish our response in September. Paola will sign-off the response. The project plan should build in some time in case it needs to be taken to Board.

### 3. GRA consultation stakeholder engagement

**Action:** S40(2) Personal to develop the proposal with input from PC leads for sex and gender reassignment.

### 4. House style guide

**Action:** all to respond to S40(2) Personal email with any feedback. S40(2) Personal and

S40(2)  
Personal to check redrafted content.

5. PG paper on single sex toilets

**Action:** all to respond to S40(2) email with any feedback.

6. Progress on other actions: see update below.

7. AOB: website audit

**Action:** S40(2) to send to S40(2) and S40(2) to allocate legal and policy actions.  
Personal

## 23 July 2018 – Update

### Progress on actions following our last meeting on 10<sup>th</sup> July

1. Position paper
  - In progress – a draft has been shared with Rebecca
2. GRA consultation response
  - In progress – project plan drafted and circulated for input, initial draft to be reviewed by the working group 1<sup>st</sup> August.
3. GRA consultation stakeholder engagement
  - In progress – S40(2), using the GRA consultation project plan
  - S40(2) Personal meeting – in progress with S40(2) Personal information
4. House style guide
  - In progress – S40(2) is leading on this and has identified a need for someone from the Legal team to be allocated for input.
5. Website audit
  - In progress – S40(2) is consulting with relevant colleagues

### Agenda for WG meeting on Weds 25<sup>th</sup> July, 4:30-5:30pm

1. Terminology in our HR monitoring form – Andrea and S40(2) Personal information
2. Terminology in our published guidance – S40(2)
3. Update of PG discussions – S40(2)
4. Equinet survey on discrimination against trans and intersex people taken to PG
5. AOB

**To note:**

S40(2) is setting up a conference with legal counsel to discuss the advice received.

On Wednesday, PG will be discussing a paper on gamete storage for trans people undergoing hormone therapy.

S40(2) Personal information has joined the working group as PC support for Sex, covering men.

S40(2) Personal circulated further correspondence from FPFW.

A draft Counsellors and Psychotherapists (Regulation) Bill, to outlaw conversion therapy for sexual orientation and gender identity, has been proposed in the House of Commons.

## **25 July 2018**

### *6. Terminology in our published guidance*

It was agreed to review the content on gender reassignment in relevant published guidance by the end of September. **Action:** to be allocated through Legal allocations system. We also discussed removing the Equality law for Businesses guidance from the website to updated the line on single sex provisions and translate into Welsh, and it was noted that it would be good to do this quickly if the correct legal text is

known. *(Was there an action associated with this point? I'm afraid I missed some of this while trying to connect the phones, so please do add any more detail if needed).*

FPFW's latest email was also discussed. **Action:** S40(2) Personal to send bullet points for a response to Rebecca, and Rebecca to then reply to S40(2) Personal referring her back to S40(2) Personal as her main point of contact.

## *7. Update of recent PG discussions*

Paper on gamete storage: PG agreed to send a pre-action letter to NHSE (copied to the Secretary of State as an interested party). Depending on NHSE's response, we may issue a claim for JR before the end of August.

Paper on FPFW's complaint re. Cambridge City Council: PG agreed to contact CCC for further information. The letter will be sent following the conference with legal counsel on 30<sup>th</sup> July. next week. **Action:** S40(2) Personal and S40(2) Personal to work with Legal on this.

### *1. Trans policy narrative*

**Action:** all to feedback any final comments to S40(2) Personal by the end of today (Thurs 26<sup>th</sup>). S40(2) Personal and S40(2) Personal to then publish the final version on Friday. It was agreed to host the statement on our website (on the GR under content on PCs) and direct queries to it. **Completed**

We also discussed a query from S40(2) Personal information re. definitions of gender in the PSED guidance he is updating. **Action:** S40(2) Personal to share S40(2) Personal email with the WG to see how it compares with our phrasing in the draft policy statement (completed).

### *2. Web audit update*

All website content containing key works has been reviewed by S40(2) Personal with input from Research, Legal, People and Policy colleagues. **Action:** S40(2) Personal to circulate



updated spreadsheet with proposed changes for final comment before those changes are made.

Andrea's email re. changes to our recruitment monitoring forms was also discussed.

**Action:** S40(2) Personal to pick up with Andrea.

### 3. *Equinet survey on discrimination against trans and intersex people*

Carried over to the next meeting.

## 3 August 2018 - Update

- Comments requested on the first draft of the GRA consultation response (see attached email from S40(2) Personal ) **by end of today.**
- Comments requested on stakeholder listening exercise proposal (see email attached from S40(2) Personal ) **by end of today.**
- Web audit: final comments requested on proposed changes (see attached email from S40(2) Personal ) by **Friday 10<sup>th</sup> August.**
- Terminology in our published guidance: could someone in the Legal team update on this either by email or at the next meeting?
- Outcome of recent PG discussions: a pre-action letter to NHSE re. gamete storage will be sent today. A press briefing has been prepared. A letter was due to be sent to Cambridge City Council re. their trans inclusion policy following the conference with legal counsel on 30<sup>th</sup> July.
- Trans policy narrative: published [online](#) on Monday.
- Our definitions of sex, gender, gender reassignment and our guidance on monitoring:
  - Following further discussion at the last WG meeting, Andrea and S40(2) Personal proposed taking a paper to EG with a decision required by early September.
  - Publication of the updated PSED guidance will be held until preferred definitions have been agreed.
  - Responses to stakeholders on this query have been held pending further discussion, although note that the deadline for some enquiries is Thurs 9<sup>th</sup> August.
  - To note, Critical Sisters have produced a template resource to encouraging engagement with us on the use of gender/sex in recruitment data monitoring.
    - Suggested agenda item for next WG to agree a standard response to stakeholder queries.
- S40(2) Personal and S40(2) Personal are meeting with the research lead for an ESRC-funded project, The Future of Legal Gender, following the Commission's support for the funding application.

- The City of London is running a consultation on its gender identity policy. Suggestion to submit a public response.
- WEC has today launched an inquiry into health and social care and LGBT communities.

## 7 August 2018

### 1. Consultation response

- First draft of consultation was circulated on 1 August with a deadline for comments of 3 August. **Action: All to send any outstanding comments to [S40(2) Personal Information] by COP 9 August. [S40(2) Personal Information] to save latest version to shared drive.**
- Need a smaller meeting to agree policies on some issues raised in the consultation. **Action: [S40(2) Personal Information] to set up.**
- Four stakeholder roundtable meetings have been set up for 17 and 24 August. Please see [S40(2) Personal Information] email of 7 August 16:27 for more information.

### 2. Update on meeting with Counsel

- Melanie, Elizabeth, [S40(2) Personal Information] and [S40(2) Personal Information] met with [S40(2) Personal Information] on 30 July to discuss the advice provided. There are still a number of issues

[S42 Legal professional privilege]

[S40(2) Personal Information] Need to decide what our policy on these issues will be. **Action: [S40(2) Personal Information] to set out list of issues where there is and isn't clarity in the law so that policy positions can be developed weighing up both sides.**

### 3. Web audit

- The following pieces of guidance are to be amended:

- 1) Your rights to equality from healthcare and social care services
- 2) What equality law means for your business

The Code of Practice on Services, Public Functions and Association will NOT be reviewed as it would have to be re-laid before Parliament.

**Action:** S40(2) Personal Information to review

- Our approach to using terminology (trans/transgender/transsexual) will need to be agreed by EG. It isn't possible to get a slot on the EG meeting on 4 September, so suggestion that the paper is brought to a working group meeting with other relevant EG members to be invited.

**Action:** S40(2) Personal Information to prepare discussion paper.

#### 4. Update on monitoring and definitions

- After reviewing the different government and ONS guidance on asking about gender vs sex, we have decided to change the monitoring question on our recruitment forms to 'What is your sex?', but keep the responses as male/female/prefer not to say. We will review the gender reassignment question later in the year in line with ONS guidance. We will consider updating the questions on other forms on a case-by-case basis according to the context and what the data will be used for.

**Action:** S40(2) Personal Information to check when People team will update the form.

- S40(2) Personal Information picked up that a Scotland report on the disability pay gap referred to the protected characteristic of gender. **Action: All to be live to this issue and ask team members to be aware of the use of sex and gender in publications.** S40(2) Personal Information to ask Libby and Alasdair to mention at the next Programmes team meeting.

#### 5. Correspondence from S40(2) Personal Information on our trans policy statement

- S40(2) Personal Information has been allocated to respond to the correspondence as it raises legal questions over the statement that legal sex is binary.

- S40(2) Personal Information is responding to 4 different letters sent by the same person regarding Pride in London. Decision to keep responses separate.

- YHA have provided us with an updated version of their draft policy.

**Action:** S40(2) Personal Information to review.

- Girlguiding have agreed to take on board all of our comments

- COSLA (Scottish local government association) have asked for guidance on what they should be telling local councils about their trans policies. **Action:** S40(2) Personal Information to draft response and share with group before sending.

#### 6. Equinet survey on discrimination against trans and intersex people

- Equinet are looking to produce a factsheet on trans and intersex issues, and are asking all members to complete a survey with questions on terminology, challenges and best practice. Most of the questions cover issues that we should have policy positions on by the time we finish our GRA response. **Action:** S40(2) Personal Information to request an extension to the deadline (to end September) and to send to S40(2) Personal Information and S40(2) Personal Information to complete.

#### 7. AOB

- City of London survey: consensus was that we should be able to respond to the survey by the deadline of 14 September using the policy positions developed as part of our GRA response. There are only a few questions and they relate to quite high-level policy issues. **Action:**

S40(2) Personal Information to send to S40(2) Personal Information to see whether she has capacity to

complete. [S40(2) Personal] to let comms know that we may want to publish our response in September.

- Future meetings: next meeting is Tuesday 21 August. **Action:** [S40(2) Personal Information] to ask Business Support to resend all future calendar invites to distribution list to ensure everyone has them in their diaries.

## 21 August 2018

### 8. Consultation response

[S40(2) Personal] has circulated the updated draft response to the GRA – **Action: All to send any comments as soon as possible and latest by COP 24<sup>th</sup> August 2018.**

### 9. Equinet Survey

[S40(2) Personal] requested an extension to timeframe for a response however this has been declined and response to be submitted by 16<sup>th</sup> September and we will aim to submit what we can. **Action:** [S40(2) Personal] to take lead on it.

### 10. Correspondence from [S40(2) Personal]

[S40(2) Personal] currently looking at the letter and considering response and aim to finalise this week.

[S40(2) Personal] has responded to [S40(2) Personal] regarding Pride in London and the

matter has been put forward to prioritisation.

11. Update on meeting with Counsel

Melanie, Elizabeth, S40(2) Personal and S40(2) Personal met with S40(2) Personal Information on 30 July to discuss the advice provided.

**Action:** S40(2) Personal is preparing an update on the issues that we have clarity on and will share with WG once finalised.

12. Roundtable update

Stakeholder roundtable that took place on 17<sup>th</sup> August 2018 was difficult and adversarial. Concerns were raised about the potential effects changes to the GRA may have on women's rights. Given the raised emotions there is a risk of the more moderate voices being drowned out. **Action:** WG to consider which issues we want to address in the consultation and the substance and how and if to incorporate all stakeholders submissions.

**Action:** S40(2) Personal Information follow up meeting to be arranged with representative of Women's Aid to enable a more moderate voices to have constructive input.

**Action:** S40(2) Personal Information to circulate Stonewall report on evidence regarding trans inclusivity

**Action:** Further stakeholder meetings on 23<sup>rd</sup> August and 24<sup>th</sup> August. EG to be updated on 3<sup>rd</sup> September and then put work to working group on 6<sup>th</sup> September 2018 with a view to advance as quickly as possible in advance.

13. GRC's and impact of legitimacy/proportionality tests

It was agreed that we having a GRC was relevant but not decisive when considering this test. Other factors given more weight.

#### 14. Strategic Update

We are in the process of considering what we want to take forward as strategic priorities. **Action:** S40(2) Person to email domain and PC leads for their input to be considered for prioritisation going forward.

### 13 March 2019

- 1) Further review of our legal guidance:
  - It isn't feasible to amend the statutory code and we are confident that our guidance is correct following the website audit last year. The instances discussed arose from people taking sections of our guidance out of context, which could lead to discrimination against trans people.
  - It was agreed that further practical guidance is needed and is within our remit. This would bring together in one place our existing guidance in relation to gender reassignment with practical examples based on general principals.
  - The work could sit under the new Compliance function and links to the 'strong legal framework' strategic aim.
  - **Action:** S40(2) Person to circulate the results of the website audit, identifying existing relevant guidance.
  - **Action:** S40(2) Person and S40(2) Person to lead on producing new guidance.
  - Decisions are still to be made on the degree of stakeholder engagement to be conducted in developing the guidance (consultation and promotion); and whether it would just focus on goods and services (as stakeholder queries have done) or include employment.
- 2) Reactive lines for social media:
  - It was agreed that we need reactive lines to respond to social media engagement, where it is deemed proportionate to respond.
  - **Action:** S40(2) Person and S40(2) Person to draft reactive lines based on previous social media discussion, including criteria for deciding if a response is proportionate. S40(2) Person and S40(2) Person to advise if Legal input is needed, and S40(2) Person to take to Legal allocations if necessary.
- 3) Plans for GR work within the remit of the new strategic plan:
  - The new guidance (above) could sit under the new Compliance function and links to the 'strong legal framework' strategic aim.



- Any 'good relations' work in this space would need a hook, e.g. the government's response to the GRA consultation. This is unlikely to be published soon.
  - **Action:** Melanie to follow up with S40(2) Personal (Stonewall) on recent meeting, and with S40(2) at GEO re. GRA response.
  - **Action:** S31 Law enforcement [REDACTED]
- 4) Request to review Sport England's draft updated guidance:
- **Action:** S40(2) Personal to review and comment on guidance and circulate to the GRWG for further comment before sending to Sport England.
- 5) Update on 2021 Censuses:
- **Action:** S40(2) Personal and S40(2) Personal to update via email
- 6) AOB
- **Action:** S40(2) Personal to update on the schools guidance via email

### GRA reform meeting, 18.5.20

#### 1. S40(2) & S40(2) Personal gave an update on recent meetings with GEO and trans sector stakeholders:

- S41 Information provided in confidence [REDACTED]  
[REDACTED] We discussed that there was an opportunity to influence before the GEO submission goes to the SoS. Please note that, since our meeting, a written PQ has been answered by government on the GRA reform consultation response, in which they state: "We have listened closely to all those who engaged with our consultation and we plan to publish our response this summer, subject to the Government's COVID-19 response", which seems to give less certainty than Liz Truss previously did that the response will come before recess.
- Trans sector stakeholders have concerns that the government response to the GRA consultation & accompanying announcement around U18s will be retrogressive. They are concerned that it will undermine the Equality Act and are keen to work with us to counter this, and would be keen for us to play a convening role with a wide range of stakeholders. It was mentioned that our planned work on the EA anniversary could include this. They are concerned that councils and the CPS are withdrawing trans guidance.



## 2. Policy work on government GRA reform consultation response

- Agreed this is most likely to sit in the Core Aim. Various options for work on this were discussed, including a possible high level public statement and influencing work before the government's announcement is made.
- It was discussed that we would need to consider how to handle communications/complaints from stakeholders which would likely increase around this time (including with respect to any announcements on our own guidance). Significant resource will be required to manage and respond to these.
- It was agreed that we should consider changing our position on spousal consent
- It was noted that GRA reform has been paused in Scotland due to coronavirus, and that there is a particularly challenging debate around GRA reform, particularly within the SNP.

**Actions:** - S40(2) Person & S40(2) to put together papers on (1) Different options for policy work on GRA reform; (2) Spousal consent. This should go to Core Aim Board, and then likely to EG.

- Comms team to consider whether EA 2010 campaign can include reference to importance of not undermining the Equality Act with respect to trans rights.

## 3. SSS & Schools guidance

- An update was given on plans in this respect and stakeholder communication discussed.

## 4. Website update

- It was agreed that this needs to be completed as soon as possible.