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T: 0300 244 4000

Mr D Cooke
request-644735-25b772b2@whatdotheyknow.com

2 June 2020

Dear Mr Cooke

I refer to your request of 25 April 2020 to escalate your complaint to the Scottish Government to Stage 2 of the [SG Complaints Handling Procedure](#). Your complaint has been passed to me to investigate.

I would like to apologise for the delay in responding to your complaint. Due to the current Covid-19 pandemic, the Scottish Government are now working under further constraints resulting in longer response times to correspondents.

Your complaint is in respect of the consultation on the draft Gender Recognition Reform (Scotland) Bill. In particular, it suggested the consultation was inadequate, as it did not define a number of terms, including “sex” and “gender”, “the acquired gender and living in the acquired gender”. You also suggested the glossary in the consultation was inadequate.

There is no requirement or obligation on the Scottish Government to define terms such as “sex” or “gender” in the ways in which you suggested. The proposals put forward in the consultation are for a Bill. Any Bill would define terms, or not, in line with the Scottish Government’s policy intentions. Therefore, the Scottish Government does not consider it has to define terms in the way suggested by you. In this regard, I do not uphold your complaint

More generally, the consultation did outline clearly, what was proposed: i.e. changes to the system for obtaining legal gender recognition. Under the proposals, a person could obtain legal gender recognition by making a statutory declaration and then applying to the Registrar General. This would replace the current system of applying to the UK Gender Recognition Panel (a tribunal) with medical evidence.

There was sufficient information in the consultation for consultees to support or oppose the proposals and offer comments on them therefore the Scottish Government do not consider the consultation inadequate. Therefore, I do not uphold your complaint

You suggested that some terms (e.g. “living in the acquired gender”) could have been better explained in the consultation and that there could have been a better glossary in the consultation.



At the moment, no work is being carried out on the proposed Bill, as a consequence of Covid-19. However, if the Scottish Government should proceed with legislation in this area, the points you made could be taken on board.

Explanatory material for any future Bill could explain terms such as “living in the acquired gender” and include a full glossary. This would be helpful for Parliament, those seeking to submit evidence to Parliament and the public

It is my role as investigating officer to ascertain whether the Scottish Government has acted appropriately by following procedure, implementing its policy and if there is any evidence of maladministration.

I am content that the Scottish Government have provided the necessary information to respond to the matters you raised.

I appreciate you may be disappointed by this outcome and should you remain dissatisfied with the conclusion of the complaints procedure, you have the right to approach the Scottish Public Services Ombudsman (SPSO).

The SPSO considers complaints from people who remain dissatisfied at the conclusion of our complaints procedure. The SPSO looks at issues such as service failures and maladministration (administrative fault), as well as the way we have handled the complaint.

The SPSO can be contacted using the following;

Bridgeside House
99 McDonald Road
Edinburgh
EH7 4NS

Freepost SPSO (you do not need to use a stamp)

Freephone: 0800 377 7330

www.spsso.org.uk/contact-us

Website: www.spsso.org.uk

Yours sincerely

Joanne Kerr

Scottish Government Complaints

The Scottish Government takes your privacy seriously. Our privacy notice (<https://beta.gov.scot/about/contact-information/personal-data/>), available on our website, sets out how we use your personal data, and your rights when communicating with us. It is made under Article 13 of the General Data Protection Regulation (GDPR).