

Response to the Scottish Government's Gender Recognition Review

Submission from the Scottish Youth Parliament
June 2018



Introduction

The Scottish Youth Parliament represents Scotland's young people. Our vision for Scotland is of a nation that actively listens to and values the meaningful participation of its children and young people. Our goal is to make this vision a reality, in order to ensure Scotland is the best place in the world to grow up.

We are a fundamentally rights-based organisation, and our mission, vision and values are grounded in the United Nations Convention on the Rights of the Child (UNCRC). In particular, our purpose embodies Article 12: that young people have the right to express their views freely and have their opinions listened to in all matters affecting them. As a completely youth-led organisation, the words and sentiment of Article 12 have a profound importance for our work.

Our democratically elected members listen to and recognise the issues that are most important to young people, ensuring that their voices are heard by decision-makers. We exist to provide a national platform for young people to discuss the issues that are important to them, and campaign to effect the change they wish to see.

SYP's Values are:

- **Democracy** - We are youth-led and accountable to young people aged 12 to 25. Our democratic structure, and the scale of our engagement across Scotland, gives us a mandate that sets us apart from other organisations.
- **Rights** - We are a fundamentally rights-based organisation. We are passionate about making young people aware of their rights, and ensuring that local and national government deliver policies that allow those rights to be upheld.
- **Inclusion** - We are committed to being truly inclusive and work tirelessly to ensure the voices of every young person from every community and background in Scotland are heard.
- **Political Impartiality** - We are independent from all political parties. By working with all stakeholders, groups, and individuals who share our values, we can deliver the policies that are most important to young people.

Our approach

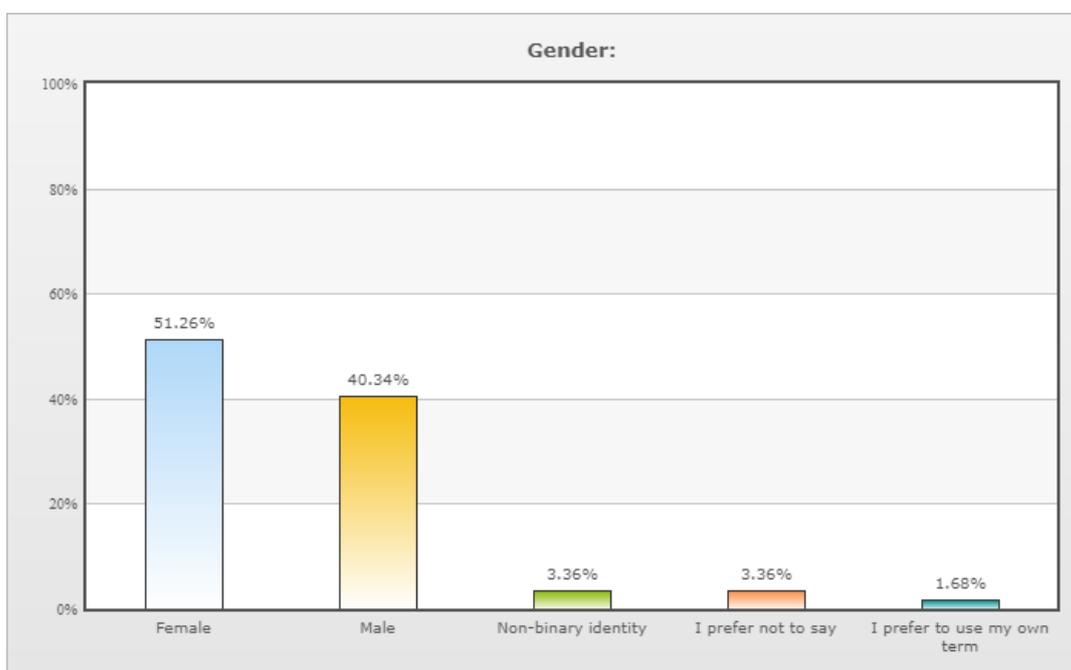
SYP welcomes the opportunity to respond to the Scottish Government's consultation on Gender Recognition (hereinafter referred to as 'the consultation'). SYP wishes to respond to this public consultation as part of its [Right Here, Right Now](#) national campaign on young people's rights, which launched in October 2017 after MSYPs voted to focus on this topic at the 63rd National Sitting in West Dunbartonshire in June 2017. This was following consultation with over 5,000 young people across Scotland.



Right Here, Right Now will work to ensure that Scotland's young people are aware of and understand their own rights, and are empowered to take action to defend their own rights and those of others. Furthermore, *Right Here, Right Now* calls for Scotland's decision-makers to take a human rights-based approach to all policy-making, service provision, and planning, ensuring young people's voices are at the heart of decisions affecting them.

One of the objectives of this campaign is to influence law, policy, and practice in order to strengthen the protection of young people's rights. To prevent breaches of young people's rights in Scotland, MSYPs will seek to protect the rights of LGBT+ and MOGAI individuals, as per its *Lead the Way* Manifesto Commitment passed on 12th March 2016 with 74%.

This commitment forms the basis of this response, as well as the online responses to an online survey ('Pre-SYP65 Consultation Survey') where Gender Recognition questions were co-designed by Zee Timmins, former MSYP for LGBT Youth Scotland and former Convener of SYP's Equalities and Human Rights Committee, and the Scottish Government's Family and Property Law Team. Please see the diagram below for the breakdown of survey responses by gender identity:

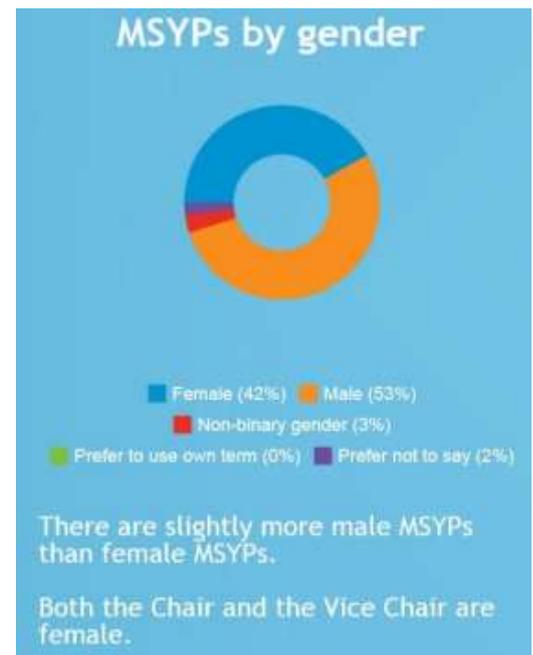


The Pre-SYP65 Consultation Survey was aimed at young people aged 12-25 and open from 1st February 2018 until 7th March 2018. It received 121 responses, from 25 of all 32 Local Authorities across Scotland. Responses came mostly from young people currently in school, college, university, full-time or part-time work, and apprenticeships or training. 69.75% of responses came from young people in school.

The Survey was completed in advance of a Consultation Workshop called ‘Gender Recognition: The Legal Stuff,’ which was co-facilitated by the aforementioned team from government and Sanna Aziz MSYP, former by-elected Convener of the Committee.

This workshop was held with the Committee members at their meeting on Saturday 14th April 2018 at our rescheduled 65th National Sitting (SYP65) in Saltcoats, North Ayrshire. For more information on the demographic of SYP’s current membership, please see [here](#). Please see the diagram below with a breakdown of our membership by gender identity.

SYP’s Conveners Group, a group of ten democratically elected young people who lead on policy at SYP and their respective ten Subject Committees, decided to respond to this public consultation through a youth-led process at their last meeting in January 2018. The newly elected Conveners Group following the 66th National Sitting and AGM in Stranraer on 9th-10th June 2018 have approved this response.



MSYPs consulted widely with the young people they represent in their constituencies and national voluntary organisations before the workshop, using their unique democratic mandate to ensure they represented the views of as wide a cross-section of young people in Scotland as possible. Therefore, our comments are fundamentally shaped by the genuine views of young people. However, as our membership represents young people aged 12-25, SYP’s response is not representative of children below the age of 12, or of adults over 26, and its scope was limited to issues raised by the questions asked and therefore didn’t extend to discussing legal gender recognition for 16- and 17-year-olds, or self-declaration within that context. Furthermore, the Subject Committee is a relatively small sample-size of young people (around 17), and therefore, some views expressed in this response are not necessarily reflective of the views of the entire membership, or all young people in Scotland.

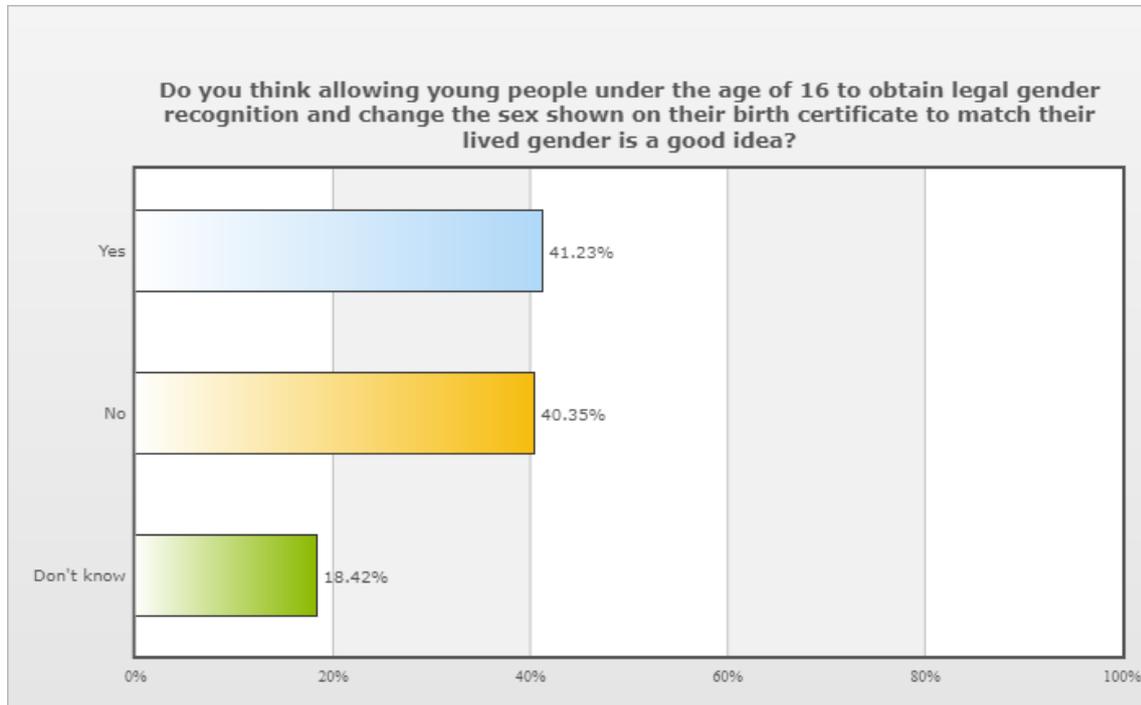
Our response is structured around the following consultation questions agreed upon with the Scottish Government, and on both MSYPs’ and their constituents views:

- 1) Do you think allowing young people under the age of 16 to obtain legal gender recognition and change the sex shown on their birth certificate to match their lived gender is a good idea?
- 2) If you do think that it is a good idea, what sort of process do you think there ought to be?
- 3) Do you think that the law should be changed so that a person can change their birth certificate to show them as identifying with a gender other than female or male?

This consultation raised complex issues which the membership found difficult to comprehend in terms of the implications of a change in the law. **The lack of consensus in responses exemplifies that young people need more information on gender identity and the law to meaningfully participate in this area of policy-making.** This conclusion has influenced our recommendations given at the end of this response, entitled ‘SYP Policy’.

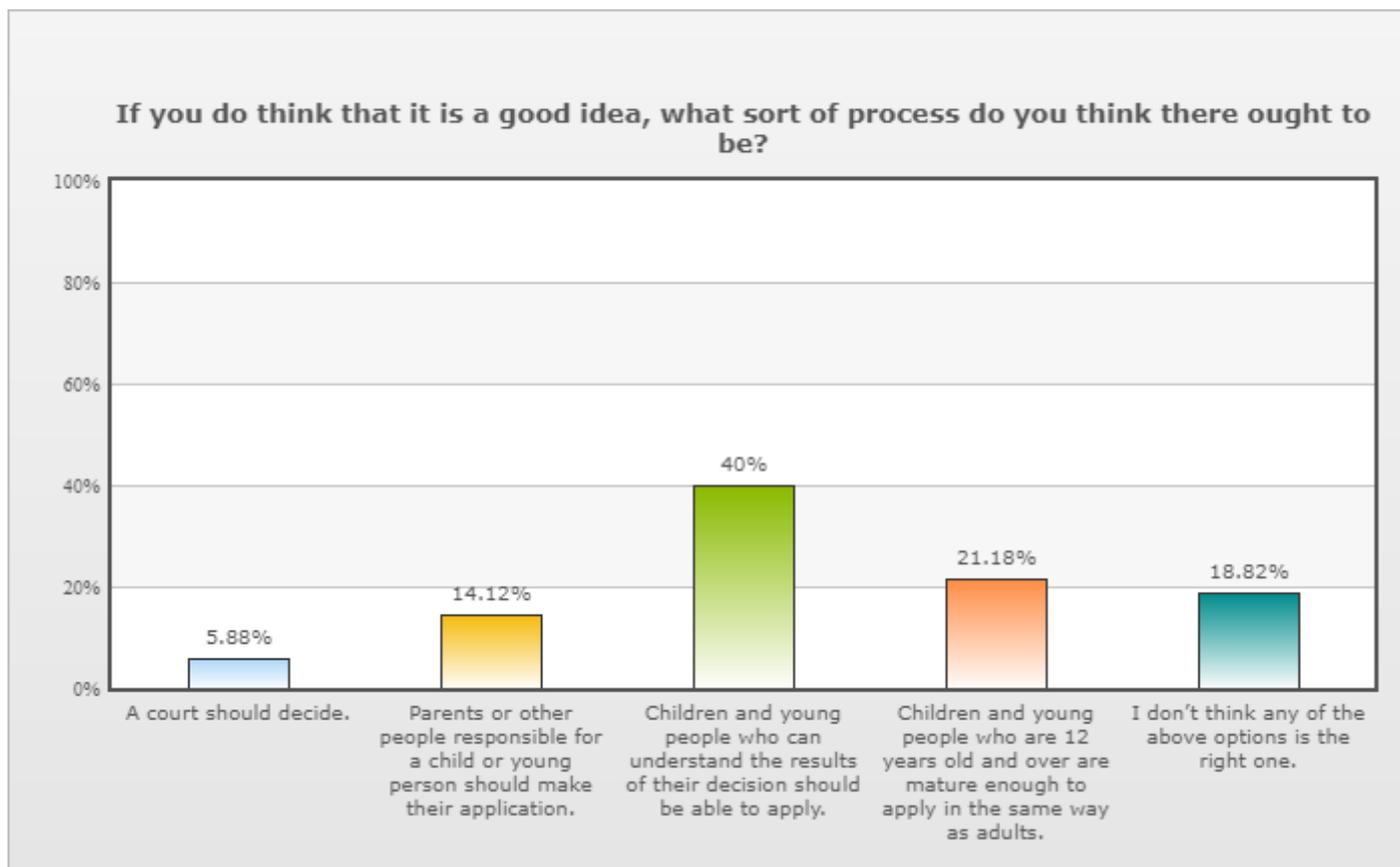
Legal gender recognition for under 16-year-olds

With regards to Question 1 above, online respondents were split, with one more respondent responding 'Yes' than 'No'. However, the collective responses for 'No' and 'Don't Know' outweighed the number of 'Yes' responses. Please see the online response below:



At SYP65, the Committee members reached a consensus that under 16-year-olds should not be allowed to obtain legal gender recognition, on the condition that the Scottish Government ensure that they are nonetheless able to fully explore their gender identity and are respected in doing so, particularly in schools.

Process - Self-declaration?



40% of online respondents who agreed that under 16-year-olds should have their gender legally recognised agreed with the procedure for self-declaration where they ‘understand the results of their decision’. However, the other 60% of responses collectively outweighed this option, demonstrating the lack of consensus on the procedural options and probable lack of clarity in terms of public understanding around these.

Non-binary gender recognition

Nearly half of online respondents agreed with the proposal for non-binary gender recognition, and while a significant proportion of respondents disagreed or did not know how to respond; the balance of young people who responded were in favour. One non-binary young person referenced the Year of Young People 2018:

‘How can you celebrate people’s achievements if they do not count as a person?’

They also highlighted the symbolic change legal gender recognition would bring about for them and other non-binary young people:

‘At the moment, in Scots law, I do not exist... everyone wants to feel like they belong.’

As non-binary young people are currently not recognised in service provision, on identity documents, and in employment, so too should they be recognised and included in society. They felt that certainty around gender identity could improve mental health outcomes for non-binary young people, given that 96% of transgender young people indicated in [LGBT Youth Scotland's 2017 Survey, 'Life in Scotland for LGBT Young People'](#) that they had experienced mental health problems and associated behaviours, and 63% of transgender young people experienced suicidal thoughts or behaviours (page 6).

Concluding SYP Policy

Given the need identified for young people to have more information on gender identity and the law to meaningfully participate in this area of policy-making, we wish to highlight the following SYP Policy:

- **'The Scottish Youth Parliament believes that teachers should receive specific training on how to tackle homophobic, biphobic, and transphobic bullying in schools.'** Policy Statement passed with 82% agreement on 14th April 2018, Members' Motion proposed by Sarah Quinn MSYP.
- **'The Scottish Youth Parliament believes that in order to tackle domestic abuse in Scotland, schools should provide gender and LGBT-inclusive Relationship, Sexual Health and Parenthood Education (RSHPE) that covers the principles of equality, the signs of abuse, how to report abuse and where to seek help.'** Policy Statement passed with 80% agreement on 1st July 2016, Members' Motion proposed by Kirsty McCahill, former MSYP.
- **'The Scottish Youth Parliament believes that in order to ensure a truly inclusive school environment that promotes equality for all gender identities, uniform policies should not reinforce gender stereotypes.'** Passed with 95% agreement on 1st July 2016, Members' Motion proposed by Mhairi Fraser MSYP.
- **'There should be increased LGBT education and information in all schools to reduce stigma and homophobic bullying.'** *Change the Picture* Manifesto Commitment from 31st October 2010 - extended by the Conveners Group on 23 April 2016, 23 April 2017, and 21 April 2018 - originally passed with 70.55% agreement.

Contact us:

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