

## **Implementation of the Gender Representation on Public Boards (Scotland) Act 2018 Response by Forwomen.Scot, 04 August 2019**

Forwomen.Scot welcomes this opportunity to respond to the consultation on the Gender Recognition on Public Boards Act. FWS is a grassroots women's rights organisation comprised of ordinary women from across Scotland: the primary motivation for foundation was concern about the Scottish Government's proposal to reform the 2004 Gender Recognition Act and the potential impact on the hard won rights and protections for women and girls.

We welcome the aspiration to have 50:50 representation. Women are still severely underrepresented in public life. Inequality in senior positions is notable across public bodies, local authorities, education etc. This Act signals intent on the part of the Scottish Government to address this inequality.

However, our concern centres on definition of woman in section 2 of the Act.

*“woman” includes a person who has the protected characteristic of gender reassignment (within the meaning of section 7 of the Equality Act 2010) if, and only if, the person is living as a woman and is proposing to undergo, is undergoing or has undergone a process (or part of a process) for the purpose of becoming female.*

The definition of a 'woman' in this Act does not mirror the definition in the EA 2010 (“a female of any age” - Section 212).

Women suffer discrimination on the ground of their SEX - UK anti-discrimination law has long recognised this (see SDA 1975, EA 2010). Sex - especially the biological experiences of motherhood - is a key factor in restricting the progress of women throughout their careers. In addition, women are subject to different expectations and experiences from birth and this affects their access to positions of authority and power.

Because the definition of 'woman' in the Act includes the protected characteristic of 'gender reassignment', the draft guidance in Annex B reduces womanhood to vaguely stated intention to 'undergo a process for the purpose of becoming female', 'using a female name on official documents', 'describing themselves and being described by others in written or other communication using female language'.

The definition used in the Act, therefore, enables a situation whereby someone who is legally male (i.e. without GRC) who fits criteria for 'woman' can legitimately be considered for Board, but someone who is legally female does not.

Recent guidance from the Westminster Women's and Equalities Committee on enforcing the Equality Act has highlighted that there is often confusion in defining single-sex services and that when a single-sex service becomes “single gender” it effectively becomes mixed sex. The same is true in this Act. This, effectively, renders this Act toothless in effecting the type of representation it sets out to achieve. Worse, it may mask the underrepresentation of females.

We note that the EQIA did not follow the definitions in the Equality Act, again rendering it unfit for purpose.

In conclusion, we believe this Act should not be brought into force based on this definition of 'woman'.