



UniQ Victoria

The Queer Students' Association of Te Herenga Waka—Victoria University of Wellington

TO	Governance and Administration Committee
FROM	UniQ Victoria
DATE	14th September 2021
SUBJECT	Inquiry into Supplementary Order Paper 59 on the Births, Deaths, Marriages and Relationships Registration Bill 2017 (296—2) Submission

Introduction

1. Thank you for the opportunity to make a written submission on the *Inquiry into Supplementary Order Paper 59 on the Births, Deaths, Marriages and Relationships Registration Bill 2017 (296—2)*. We do not wish to make an oral submission to the Committee.

UniQ Victoria

2. UniQ Victoria is the Queer Students' Association of Te Herenga Waka—Victoria University of Wellington. We are a student-led group, controlled by queer¹ and queer-allied students, working in the interests of all queer students. We provide students with social support and services that promote their health and wellbeing and advocate on behalf of queer students to ensure Te Herenga Waka—Victoria University of Wellington is a safe and inclusive environment.

Preface

3. UniQ Victoria previously submitted on the Births, Deaths, Marriages, and Relationships Registration Bill in 2018². This was a joint submission with the Victoria University of Wellington Students' Association (VUWSA) and covered issues related to the process for changing ones' sex on their birth certificate (and subsequently most other identity documents) which involved a Family Court process and requiring proof of medical treatment as it pertained to transitioning.
4. The issues we raised previously included:
 - a. the financial (including legal and medical costs) and time barriers to undergoing this process—these are keenly felt by students who are more likely to have to borrow money to meet basic living costs;
 - b. the distress and dysphoria of having to prove ones' gender through invasive medical and legal proceedings—especially given how some transgender individuals do not and will not seek medical interventions as a part of their transitioning journey; and
 - c. how the process dehumanises transgender people by reducing their voice and lived experiences.

¹ We use queer to be inclusive of, but not limited to, gay, lesbian, bisexual, transgender, takatāpui, whakawahine, tangata ira tane, intersex, fa'afafine, fakaleiti, mahu, vakasalewalewa, palopa, akava'ine, fiafifine and fakafifine, queer, questioning, genderqueer, genderfluid, asexual, aromantic, pansexual, all who identify as such and those who prefer no label at all.

² UniQ Victoria & VUWSA (2018). *Submission on the Births, Deaths, Marriages, and Relationships Registration Bill*. Retrieved from: https://www.parliament.nz/resource/en-NZ/52SCGA_EVI_74854_824/ed8bd176dd706e9249a4fe7b946172c5e6d5652d

Submission

5. We are strongly in support of the changes proposed in *Supplementary Order Paper 59* on the *Births, Deaths, Marriages, and Relationships Registration Bill* (herein referred to as “the Bill”). We believe it will make it easier for transgender, non-binary, intersex and other gender-diverse people to change the sex marker on their birth certificates and does so in an affirming way.
6. As a queer student representative group, we recognise and appreciate the impact that this Bill will have on queer students in particular. We often see students as they have left their families for the first time and entered into an environment where they can more safely and freely explore their gender identity and receive the necessary support in doing so.
7. However, we also see with this independence, that students are subjected to various governmental and university administrative systems that force them to share and identify with sex and gender identities that are not theirs simply because it is listed on their birth certificate. This spread across various governmental student support programs, university administration, accommodation, healthcare providers, and others.
8. While we do work with students and the university (and others) to eliminate this barrier and allow people to list their correct gender identity, not all are willing to support queer people in this way. Sex markers on birth certificates are often presented as the reason why they cannot accommodate queer people and so making it easier for individuals to change this through self-identification, will work to eliminate this issue across other administrative systems.
9. Regarding *Supplementary Order Paper 59*, we would like to make comments and recommendations, which will be outlined in more detail in this submission, regarding:
 - a. additional measures being included to support asylum seekers, refugees, and migrants’ right to legal gender recognition;
 - b. supporting young people under the age of 18 to more easily be able to change the sex marker on their birth certificates;
 - c. nominated sex markers—specifically the removal of intersex as a nominated sex marker and community consultation; and
 - d. multiple changes of a sex marker—specifically the potential additional requirements.

Asylum Seekers, Refugees and Migrants

10. While we recognise that the proposed changes in *Supplementary Order Paper 59* include “that the self-identification provisions cannot be used to change the individual's birth records from another country,” we feel that this means alternative options should be explored to support asylum seekers, refugees, and migrants’ right to legal gender recognition.
11. First and foremost, this is a matter of equity within our community. Rainbow asylum seekers, refugees, and migrants must be supported in their right to self-determination for legal gender recognition. Any systems or processes that fail to account for and accommodate the unique needs and circumstances of select members must be improved and now is the time to do it.
12. Additionally, outside of the current global health pandemic, international students make up a sizable percentage of the student population in Aotearoa New Zealand. Among them are queer international

students who face similar issues to that of domestic queer students. In terms of legal gender recognition, this is made more difficult because their birth records are from another country.

13. We feel it is important that queer international students are given the same right to self-determination for legal gender recognition as queer domestic students. Whether they are coming here because it is a more accepting environment or not, or because they simply want to study here, we believe this option should be available to them and we would like this issue to be adequately explored and reflected in this Bill.
14. We recommend turning to community groups like Rainbow Path and other rainbow asylum seekers, refugees, and migrant focused groups and organisations. As demonstrated in their submission on *Supplementary Order Paper 59*³, they have expertise that is essential in ensuring we are supporting these members of our community to the fullest extent and not excluding them in this step for our community

Young People Under the Age of 18

15. While students are typically within the age range of 18 and over, having an accessible process for those under the age of 18 is, again, a matter of equity for the community. Young people and children are capable of understanding their gender identity and should be supported in their efforts to affirm their gender, including through sex markers on birth certificates.
16. *Supplementary Order Paper 59* distinguishes 16- and 17-year-olds from both other eligible people and eligible children, requiring them to have either the written consent of their guardians or a letter of support from a suitably qualified third party if they have never been in a marriage, civil union, or de facto relationship. This is an improvement and one we support, however, given the existing rights of those aged 16 and over in Aotearoa New Zealand, we believe that a better option would be to require neither for all 16- and 17-year-olds.
17. *Supplementary Order Paper 59* also sets out that eligible children (aged 15 and under) require applications to be done by their guardian on their behalf. We understand why this provision is included, however, wish to also acknowledge that guardians can play a huge role in undermining childrens' gender identities, especially when they are transgender, non-binary, intersex and other gender-diverse identities.
18. Children understand their own gender identities and need to have them affirmed. While it is our hope guardians play a supporting role in this, we recognise that they do not always. To this effect, we suggest amending the provisions to support applications by suitably qualified third parties on behalf of eligible children. This would mitigate the risks of harm associated with not affirming young people's gender identities should guardians choose not to support them.

Nominated Sex Markers

19. We support the provisions that remove intersex as a sex marker enable sex markers other than male and female to become a person's nominated sex through specification in regulations. Gender identity is vast and ever-changing. Social understanding of gender is constantly growing and with that comes changes in terminology and identity.
20. We believe this provision also supports the inclusion of culturally specific gender identities such as takatāpui, whakawahine, tangata ira tane, fa'afafine, fakaleiti, and many others which is important for ensuring these provisions provide equally for all members of our community. This, however, is

³ Rainbow Path (2021). *Support Rainbow Path's submission on the BDMRR Bill*. Retrieved from: <https://rainbowpathnz.com/2021/09/11/supporting-rainbow-paths-submission-on-the-bdmrr-bill/>

premised on regulations being developed in consultation with Māori, Pacific, and ethnic communities which we would like to see prioritised.

21. We also recommend consulting with transgender, non-binary, and intersex people and organisations during the development of these regulations to ensure sex marker options adequately cover the gender diversity within our community and do not leave anyone out.

Multiple Changes of a Sex Marker

22. We support the inclusion of provisions that remove the requirement for the Registrar-General to be satisfied there are special reasons making it appropriate to accept a second or subsequent application for registration of nominated sex. There are many reasons why queer people may wish to make multiple changes to their nominated sex including their gender identity changing over time and more accurate sex markers being provided as an option.
23. However, we are concerned about the potential for additional requirements developed through regulation to be potentially prohibitive and create barriers for people. The reasoning provided indicates this is to mitigate the risk of people abusing this process to create new identities⁴ though additional comments suggest it is not clear that people would use the self-identification process to commit fraud as there may be more effective ways to do so⁵.
24. While it is comforting to see in the Regulatory Impact Statement that additional requirements in regulations will be flexible to ensure it is accessible and will not include the need to provide evidence of medical treatment nor be overly burdensome, we know from experience that even the appearance of barriers or obstacles is enough to deter queer young people from engaging in necessary processes like this.
25. We suggest consulting widely with various people, community groups and organisations, and Māori, Pacific, disabled, and ethnic communities to ensure accessibility is prioritised and operationalised in these regulations. Specific groups like young people and Māori, Pacific, disabled, and ethnic communities should be prioritised in this consultation as well.

Conclusion

26. Thank you again for the opportunity to submit on this legislation. This is a vital piece of work that will make life so much easier for our community and we look forward to seeing it become reality soon.

Ngā mihi nui



Rosie van Beusekom
President
UniQ Victoria

⁴ Department of Internal Affairs (2021). *Regulatory Impact Statement: Introducing a self-identification process to recognise gender on birth certificates*. Retrieved from: <https://www.treasury.govt.nz/sites/default/files/2021-06/ria-dia-isi-may21.pdf>

⁵ Department of Internal Affairs (2021). *Supplementary Departmental Disclosure Statement*. Retrieved from: <http://disclosure.legislation.govt.nz/sop/government/2021/59>