



GENDER MARKING IN PASSPORTS

INTERNAL REVIEW OF EXISTING ARRANGEMENTS AND POSSIBLE FUTURE OPTIONS

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1 Current Policy

- 1.1 All applicants are required to select either the gender Male or Female on the passport application form, both in paper and online format. Where no gender is selected, the gender shown on the applicant's source documents will be transposed onto the passport application screen.
- 1.2 Before a passport may be issued in an acquired gender, evidence of the transition is required. Evidence may be in the form of a Gender Recognition Certificate (GRC), re-registered birth certificate showing the acquired gender or a letter from the applicant's medical consultant or a General Practitioner confirming that the orientation to the acquired gender is likely to be permanent.
- 1.3 Evidence of any change of name (e.g. statutory declaration or deed poll) is also required. The issue of a passport in the reassigned gender does not give any legal recognition to a change of gender.
- 1.4 There is no provision in the passport or on the passport application form for a person to transition from one gender to no gender or to state that they do not identify in either gender. This is in line with UK legislation that recognises only the genders Male and Female.
- 1.5 Gender diverse people are therefore instructed to complete the gender on the passport application form in the gender that is shown on their birth or adoption certificate, unless they are in the process of transitioning to one or other recognised gender, when they will be treated as set out above.

Benefits of gender in passports

1.6 Gender is used:

- As a biographic detail for confirming identity.
- To identify the correct gender of foreign names - this is becoming more relevant with the repatriation of applications from overseas.
- To enable appropriate customer interactions (including respectful address in writing and in conversation and the application of customary and gender-based naming conventions).
- For accurate nationality determination (through a 'Mother' and/or a 'Father').
- For identifying impostors at all stages of the passport application and usage - for example, a person may have fraudulently tampered with a genuine British passport by substituting the photograph.
- For transgendered persons to use their passport as evidence of their acquired gender.
- So that physical checks at borders are able to be carried out by a person of the appropriate gender without questions being raised about the applicant's gender.
- As proof of identity to access gender-specific services.

Uses of gender in the life of a passport

- 1.7 Gender is a relevant factor at all stages in the life of a passport. From application, through consideration and then to every time the passport is used by the customer, gender is used as a biographical identifier to help verify the identity of the applicant.

Areas of potential negative impact

1.8 The two groups who may be negatively impacted by our current policy are persons:

- transitioning from one recognised gender to another who may not physically present as the gender recorded on their passport or who use one identity for official purposes (for instance at work) and another to travel in.
- who are gender diverse, not identifying in one or either gender who object to having either Male or Female shown on their passport.

2 Calls for change & petition

- 2.1 During Committee Stage of the Identity Documents Act 2010, the Opposition tabled an amendment at Committee Stage proposing that the Secretary of State could not cancel an ID card until a transgendered person in the assigned gender (i.e. gender of choice) could apply for an identity document in that gender. The amendment was rejected as a transgendered person can currently apply for a passport in their assigned gender (if they supply the necessary proof).
- 2.2 The Identity Card Scheme provided for a transgendered person to have two ID cards but only one card in one gender that could be used for travel purposes. The ID card was intended to be a travel document (in Europe) and to enable quicker access to services domestically. As indicated during the passage of the Identity Documents Bill:
- (a) we do not see that dual role as a function of the passport;
 - (b) issuing two passports enabling travel in each gender may create potential security issues and logistical difficulties by allowing a person to travel into the country in one gender and travel back out in the other gender; and
 - (c) that it may also create difficulties for the individual and may increase the potential for their involuntary outing.
- 2.3 We have sought to speak to key stakeholder groups and to relevant parts of Government (section 7). The fact that we are carrying out the work is welcome but there is little in the way of support to make changes that may as a matter of routine result in highlighting the status of the person.
- 2.4 There are no outstanding applications in which the applicant has sought either change to the process of considering applications from transgendered people or of changing the passport itself with the gender marking.
- 2.5 We remain open to suggestions for change but such a change would be on the basis that it was either required by law or that it provided additional benefits to the applicant. Choice is an important factor but we have received feedback that would suggest that enabling that choice may be more detrimental than beneficial.
- 2.6 There have been very little public calls for the 'X' provision in the passport. A campaigner is in frequent contact with the Government Equalities Office, ourselves, other ministries and No 10 about recognition of the ability to choose both gender and not to be required to disclose gender. There are no calls for change from gender representative groups or civil liberties groups. The campaigner has set up a petition seeking a change in the passport gender markings. To date this has attracted 667 signatures.

"We, the undersigned, call upon the Identity and Passport Service (*now Her Majesty's Passport Office*) to recommend revision of existing policy that does not accommodate United Kingdom passport holders who do not define their core identity as either male or female.

We call upon the IPS (*now HMPO*) to recommend that 'X' passports should be issued in the United Kingdom.

We also call upon ministers and parliamentary representatives within the government to support the requirement for provision of non gender-specific documentation for those who do not define their core identity as male or female."

<http://www.gopetition.com/petitions/in-support-of-%E2%80%98x%E2%80%99-passports-in-the-united-kingdom.html>

3 Gender in the life of a passport

Customer applies for passport

- Gender marker selected on application form.
 - Documents supplied which show gender (birth/adoption certificates, GRC, medical evidence etc).
- If gender does not match it could indicate potential fraud.**

Application considered by HMPO

- HMPO confirms whether gender shown on form matches gender on supplied documents, previous passport and apparent gender shown in photograph.
 - Biographical footprint and system checks undertaken to match identity to any previous passports or documents. Gender used in match.
 - If applicant changes name to a name commonly identified with opposite sex, this will not change the gender shown on the passport.
 - Identity interview carried out on first time applications or in cases of doubt. Gender used as biographic detail for investigation and for comparison of person who attends interview.
 - Checks can be completed with other government departments to ensure identity in cases of doubt. Gender used in checks.
- If gender does not match it could indicate potential fraud.**

Passport issued to customer

- Customer uses passport as identity document to access a service in the UK. Staff at organisation or supplier check that gender appears to match applicant.
- Customer uses passport to travel. Border staff check that gender appears to match applicant.
 - Applicant may require additional checks which must be carried out by person of same gender.
 - Customer may experience delays or further checks where gender does appear to match that shown in passport.
- Customer required to use passport as identity document overseas due to local law. Relevant official check that gender appears to match applicant.

If gender does not match it could indicate potential fraud.

4 Legislative Issues

- 4.1 As passports are issued at the discretion of the Home Secretary in exercise of Royal Prerogative, there is no legislative requirement in domestic law setting out the gender requirement in the UK passport. However, legislation in other areas recognises only the genders Male and Female. Therefore, what may appear to be a simple and inclusive change to passports could have wider reaching consequences.
- 4.2 The Sex Discrimination Act 1975 (as amended in 1986) refers only to 'Woman' and 'Man' and the sexes as 'Male' and 'Female'. Similar language is used in the Equality Act 2010. The Gender Recognition Act 2004 refers only to Male and Female genders and states that a person of "either gender...may make an application for a gender recognition certificate of the basis of...living in the other gender." No provision exists for transitioning to a third gender or for a person to be shown as no gender.
- 4.3 Nationality legislation relies on the concepts of 'Mother' and 'Father'. Under the British Nationality Acts (BNA) 1948 and 1981, the Immigration Act 1971, Human Fertilisation and Embryology Act 2008, and the Adoption and Children Act 2002, nationality is only able to be passed on by a mother or father and in a large amount of cases (especially for those born prior to 1983) can only be taken through the father. An introduction of a third gender would require possible amendments to these Acts to explain how someone of a third gender may be able to gain or pass on nationality, which would be a complex undertaking.
- 4.4 Third parties (including banks) that have a legal obligation to confirm a person's identity and to do so they are legally empowered to take a copy of the personal details in a passport:
- Under the Immigration, Asylum and Nationality Act 2006 an employer has to verify that a person is legally able to work in the UK.
 - Under the Money Laundering Regulations 2007, certain organisations (banks, insurance companies, accountants, solicitors etc) are required to confirm a person's identity to enable them to become or remain their customer. When completing some financial transactions customers may be asked to provide proof of identity and a copy of their passport may be taken.
- 4.5 At present there are no plans across Government to introduce a third gender. Whilst some parts of government do not rely on gender as part of their identifier process (e.g. Ministry of Defence on military personnel identity cards), the norm is for gender to form a key part of the personal information gathered in respect of the individual.
- 4.6 The introduction of a third gender would require changes to computer systems, record gathering processes, procedures and policies as well as developing strategies for how public services interact with their customer base. As with HMPO, other parts of government do have policies in place to deal with transgender people but they specifically preclude recognition of a third gender.
- 4.7 HMPO could introduce recognition of a third gender but it would be in isolation from the rest of government and society. There are likely to be so few applications for such a passport but we would need to avoid issuing a document that was not recognised by other parts of government or wider UK society.

5 Options

Option 1: Do nothing. We have discussed gender with international partners and it was raised at the ICAO, Technical Advisory Group meeting in December 2012. ICAO is adopting a similar approach to the UK. That is maintaining a watching brief on this area of work with regular updates and reviews

Option 2: Issuing two passports

5.1 Similar to the process for identity cards, transgendered persons would be able to apply for two passports selecting one gender for travel and the other for domestic use. Alternatively, a passport could be issued in each gender. There are problems with this approach:

- It is not in accordance with current ICAO standards of 'one passport per person'.
- There are potential security risks of allowing a person to travel under different identities and with different facial images.
- There are potential travel difficulties for individuals in certain parts of the world.
- It may provide an opportunity for fraud by creating two identities an individual could potentially claim benefits, open bank accounts and apply for credit in.
- There would be a number of system issues in the physical issue of two passports, including fundamental changes to our computer system that would be very costly.
- This option would not provide any resolution for non-gendered individuals.

Option 3: Removing gender from the visible information on a passport

5.2 This option would entail removing gender markers from the visible fields of the British passport but continuing to gather the information on the application form as per current policy so that it could be encoded on the biometric chip. This option raised the following specific concerns:

- Gender forms a part of your identity, removing this field from the visual field on passports would be a security risk.
- Officials at ports of entry may be unable to identify individuals and would therefore be required to check the passport of the individual against the system to extract the biometric data. This would inconvenience all passport holders and increase time and cost for border controls across the world.
- Customers may encounter difficulties on entry to or exit from certain countries which could lead to distress and potential involvement from Consular departments overseas.
- Although the specific details of what the markers are used is optional, current ICAO standards require the gender of the holder to be specified on the passport, both visibly and encoded on the chip, therefore there is little scope to remove the gender field on the passport.
- It could be seen as disingenuous to remove gender from the visible fields of the passport only to show it on the biometric chip.
- There would be a number of system issues in the physical removal of gender from the visible fields of the passport, including updates to our computer system, which would be very costly.
- This would not provide any resolution for non-gendered individuals.

Option 4: Removing gender from passports

5.3 This option would entail removing gender markers from both the visible fields of the British passport and the biometric chip. The data may or may not still be collected for passport record and investigation purposes. This option raised the following concerns:

- Gender forms a part of your identity, removing this field from passports would be a security risk.
- Officials at ports of entry may be unable to identify individuals and would therefore involve checks to be made which would further inconvenience and embarrass the individual. Determination of who should complete these checks (i.e. a person of the correct gender) would be frustrated.
- Customers may encounter difficulties on entry to or exit from certain countries which could lead to distress and potential involvement from Consular departments overseas.
- Current ICAO standards require the gender of the holder to be specified on the passport, both visibly and encoded on the chip, therefore there is little scope to remove gender from the passport.
- There would be a number of system issues in the physical removal of gender from the visible fields and biometric chip on the passport, including fundamental changes to our computer system which would be very costly.
- If gender data was still required on the passport application form, this would not provide a full resolution for non-gendered individuals.

Option 5: Adding a third gender marker 'X'

5.4 The option of having a third category, 'X', within the gender field in a passport is already permitted by the International Civil Aviation Organisation (ICAO) standards. This option raised the following concerns:

- This marker could single out individuals, specifically at border controls or imply that an individual is of no gender (perhaps incorrectly) and therefore cause offence.
- This marker would need to be added to our current passport application form; however, it may cause some confusion with applicants who may interpret this category wrongly. Applicants may then need to be contacted to confirm they marked 'X' correctly. This could result in increased customer complaints and/or inaccurately issued passports.
- Officials at ports of entry may be unable to identify individuals and would therefore involve checks to be made which would further inconvenience and embarrass the individual. Determination of who should complete these checks (i.e. a person of the correct gender) would be frustrated.
- There would be a number of system issues in the addition of 'X' as a gender marker to the visible fields and biometric chip on the passport, including fundamental changes to our computer system which would be very costly.
- Other customers may request 'X' in their passports or in fact question whether HMPO should be asking what their gender is at all for the purpose of passport issuance and whether this is proportional.
- British passport holders with 'X' in their passports may require additional consular assistance e.g. if they are stopped on entry to or exit from a country which does not recognise a third gender or criminalised transgender or gender diverse individuals.
- Section 22 of the Gender Recognition Act 2004 protects the privacy rights of transsexual people under Article 8 of the European Convention on Human Rights by criminalising the disclosure of information relating to their gender history by a person who acquired that information in an official capacity. Section 22 sets out a series of exceptions, where disclosure is considered to be justified, which include where the person in question has given permission for the disclosure. Therefore, in order to be able to add 'X' to a passport, HMPO must have a declaration signed by the applicant that their individual gender situation will be referred to on their passport.

- Evidence of gender diversity needed for an applicant to be able to select 'X' as a gender marker would be difficult to produce because the UK has no legal framework for those who do not recognise Male or Female genders. Self-identification would not be appropriate.

6 Costs

- 6.1 Introducing a new gender marker of 'X' to the British passport would require fundamental changes throughout the application, examination and printing systems. Specific actions which would attract a cost have been identified below.

Paper application forms/passport issuing computer systems

- The current paper passport application form requires the applicant to select either 'Male' or 'Female' gender boxes in section 2. We would need to change the application form to include a new gender box 'X' and adding a new scan-able box to the application form is a very costly amendment, estimated at approximately £1m when combined with the scanning and system amendments explained below.
- The scanning parameters of the application form would need to be changed in order to allow the new data to be lifted to Passport Application Support System (PASS) and Application Management System (AMS).
- The PASS and AMS systems would have to be updated to allow the transfer and storage of the new data as well as for staff to be able to amend the new gender field where appropriate.
- The Main Index (MI) system would have to be updated to enable new data to be transferred to it, stored and retrieved through future searches.

Online applications

- The current online passport application process requires the applicant to select either 'Male' or 'Female' gender boxes in section 2. We would need to change the application process to include a new gender box 'X' which is a very costly amendment, estimated at approximately £1m when combined with the scanning and system amendments explained above.
- The information transfer parameters of the application process would need to be changed in order to allow the new data to be transferred to PASS and AMS.
- As for paper forms, the PASS and AMS systems would have to be updated to allow the transfer and storage of the new data as well as for staff to be able to amend the new gender field where appropriate and the Main Index (MI) system would have to be updated to enable new data to be transferred to it, stored and retrieved through future searches.

Guidance

- The guidance booklets which accompany the paper application form would need to be re-written – internal costs, cost of engaging the Plain English Campaign and printing costs.
- Online guidance provided by the Government Digital Service (GDS) on Gov.uk & Directgov – internal costs.
- Staff guidance policy and procedure – internal costs.
- Outsourced call centre scripts for Teleperformance – internal costs.
- Back office processing outsourcing rules in the Steria Authorities Instructions and guidance on application scanning, Data Verifying (DV) and requesting relevant documents from staff – internal costs.
- Post Office Ltd guidance on applications and what they are able to ask for as part of the Check & Send service would need to be updated – internal costs.

Passport printing

- Local Printing solutions will need to be amended – project costs.
- De La Rue printing process will need to be amended – potential contract change.

Staff costs

- Completing all work listed above – internal costs.
- Re-training all internal staff – internal costs.
- Providing materials to all partner staff – internal costs.

Overall costs

- 6.2 The estimated total cost of the changes listed above is approximately £2m including updates to passport printing and contracts, based on previous updates. This figure however is an approximation and an accurate figure could only be reached through full negotiation with our partners.
- 6.3 This estimate also does not include the changes required for any other Government organisation, legislative changes or the potential impacts on UK businesses, which are likely to be significant and based on our projections for our own changes, could result in a multi-million pound bill for Government services.
- 6.4 The Business Design Authority team within HMPO have stated that changes to the application pack would take 18 months and due to the scale of any required system changes it would take approximately a year to design, build and test. This time frame could increase staffing costs considerably.

7 Stakeholders

- 7.1 Informal discussion has taken place with a number of internal and external stakeholders.

a: gender

- 7.2 Sarah Rapson (*at the time of writing this report was*) the transgender champion on behalf of the Home Office and regularly engages with a: gender, the civil service network for transsexual, transgender and intersex staff. a: gender was pleased to see an active review undertaken of gender in the British passport. a: gender felt that the removal of the gender category would solve some issues relating to what conditions apply to changes to passport gender, and for those people who identify with either genders or none. However many transgender people use the passport as evidence of their acquired gender and retain the privacy of their previous gender. They would not be able to do so if the gender identifier is removed and may therefore be forced to rely on other documents.
- 7.3 The inclusion of a third gender marker has merit for those transgender people who are bi-gendered or non-gendered although it will inevitably make their situation in life obvious whenever presenting the passport which could be undesirable. a:gender is completely opposed to any forced application of an 'X' identifier to all transgender people, or to those without formal gender recognition under the Gender Recognition Act. It was further recognised that there would be significant difficulties in providing documentary evidence of gender diverse people in order to request 'X' as a gender marker on a passport. On this basis it was acknowledged that this was not an option viable to take forward.

Christie Elan-Cane - Christie is an active campaigner fighting for legal and social recognition outside the societal gender system. Christie considers that:

- 7.4 A valid passport is essential for international travel, and the passport is now generally accepted as a personal identification document that fulfils a functional role in a number of situations where a person's identity needs to be confirmed. It is therefore of fundamental importance that the passport, as a representative identification document, does not misrepresent the identity of the person.
- 7.5 It is not currently possible to obtain a United Kingdom passport that is non gender-specific. All passports issued by the UK passport authority – The Identity and Passport Service (*now HMPO*) – include a character to indicate the sex of the passport holder – either 'M' or 'F'. It is possible for gendered trans* people to apply for a UK passport that records the gender rather than the natal sex but it is not currently possible to obtain a passport that contains no reference of gendered identity.
- 7.6 Non-gendered people in the UK are forced to declare as gendered when applying for a passport and forced to present an identification document that misrepresents the core identity when travelling through international border control, and on a number of other occasions where proof of identity is required.
- 7.7 The International Civil Aviation Organisation (ICAO) defines 'sex' as a mandatory data element for the machine readable travel document as specified in ICAO Document 9303. Contained in this document are three permitted characters under 'sex': The permitted characters are 'F' (female), 'M' (male) and 'X' (unspecified).
- 7.8 The respective governments of Australia and New Zealand operate a policy where it is possible for citizens to obtain a non gender-specific 'X' passport in circumstances where gendered options 'M' and 'F' are not appropriate. The governing authorities of India, Nepal and Pakistan have also recognised the legitimacy of 'X' as a preferred option when 'M' and 'F' are not appropriate.
- 7.9 While there is no international obligation upon the United Kingdom authorities to issue 'X' passports, there is a requirement that border agencies of all nations should recognise the 'X' passport as a valid travel document (in compliance with ICAO standards for machine readable travel documents) when an 'X' passport is presented at international border control by a visitor entering the country.
- 7.10 As a person of non-gendered identity, inappropriate gendered references on my personal identity documentation make me feel compromised and diminished.
- 7.11 The Identity and Passport Service are currently undertaking a review of existing policy as part of a government action plan on trans* equality. The review is due to conclude in February 2013 when the IPS will present recommended proposals to the government. The IPS has not invited stakeholder participation as part of their review and neither has there been any engagement with stakeholders.
- 7.12 I call upon the IPS and the government to amend a discriminatory policy that denies non-gendered people a legitimate identity. I call upon the IPS and the government to make the non gender-specific 'X' passport available to all United Kingdom passport holders for whom gendered identification is not appropriate.

Petition:

We, the undersigned, call upon the Identity and Passport Service to recommend revision of existing policy that does not accommodate United Kingdom passport holders who do not define their core identity as either male or female.

We call upon the IPS to recommend that 'X' passports should be issued in the United Kingdom.

We also call upon ministers and parliamentary representatives within the government to support the requirement for provision of non gender-specific documentation for those who do not define their core identity as male or female

Gender Identity Research and Education Society (GIREs)

- 7.13 The focus of GIREs, a support network for trans people and those who care for them, is on people who experience atypical gender identity development, especially trans people, whether or not they are also affected by L,G,B or I (Intersex) issues. This reflects the special interest of the trans people in the charity's membership. GIREs is concerned that society often treats this particular group harshly. This includes shortcomings in the provision of medical services.
- 7.14 GIREs pointed out that there are trans people who do not interact with officialdom / banks / local authorities etc and who would find it difficult to prove that they were living in role (i.e. of the chosen gender). There is no definition of what living in role actually means. The issue is that the person concerned wishes to be identified in the non-birth recorded gender. In effect, this means the gender marker in the passport reflecting the preferred gender of the individual and being addressed by the 'system' as Mr or Ms as appropriate. A person requiring an F marker in their passport to match their appearance would do so to make travel safer. A person on the Real Life Experience (to obtain a Gender Recognition Certificate) presenting themselves as female with an M marker in their passport may not achieve the same level of safe travel. GIREs recommended options for changing the gender marker on a passport (for non-GRC holders) are:
- as at present (doctor's letter and formal name change document);
 - a (self) statutory declaration (that the change of gender ID is permanent) and formal name change document;
 - for somebody who has been using a name other than that on their birth certificate - evidence that they have been using that name for 2 years, together with a statutory declaration as in the second bullet point

Additional comments were received from GIREs and are attached at Annex A.

8 ICAO standards & policies in other countries

- 8.1 Under International Civil Aviation Organisation (ICAO) standards, gender (known in their guidelines as 'sex') is one of four mandatory personal identifiers contained in a passport. A passport must include either the letter 'M' (Male), 'F' (Female) or 'X' (unspecified) both in the visible fields of the passport and encoded on the biometric chip.
- 8.2 'X' is not a required option under ICAO guidelines and it is the decision of the issuing country whether to offer this option or not.
- 8.3 'There are currently no plans by ICAO to change their standards and requirements.

Other countries

- 8.4 We have contacted other countries for information on their policies regarding gender in passports. The following countries use an additional gender marker to 'M' and 'F' (e.g. 'X') in their passports:
- Australia
 - New Zealand
 - Denmark
 - Malta
 - Argentina
- 8.5 The approximate total number of passports issued by all of these countries issued showing alternative gender markers or no gender markers is unable to be provided at present, but from previous correspondence with the countries involved it is thought to be only a handful per country.
- 8.6 The criteria for citizens of these countries to obtain an alternative gender marker or no gender marker in their passports vary slightly, but 'X' is generally only available to a person who does not identify in either Male or Female genders and can provide medical evidence of this, transgender people who identify in the Male or Female gender cannot pick 'X' as their gender marker. Argentina however requires no evidence of any kind and let applicant self-certify their choice of the "X" marker. New Zealand are currently consulting on a similar process, however they are likely to require their applicants to sign a statement specifically requesting 'X'.
- 8.7 We have not had a response to our enquiries as to whether citizens of these countries have encountered difficulties (whether at home or abroad) because of the use of alternative gender markers or no gender marker, except for in the case of Australia (see below). However due to the low number of passports issued in this way as yet, issues are only likely to come to light in the longer term.
- 8.8 Another country which takes a different direction is India. They have a historical culture of eunuchs, known as 'Hijira', which are accepted as a third gender and since 2005 have included the gender marker E on passports to refer solely to these people. They do not recognise transgender or non-gendered persons on passports. India does however refer to eunuchs and transgender people on voter rolls and voter identity cards as "others" with their gender marked as "o" on these documents.
- 8.9 Some examples of possible issues we have become aware of are explained below to show the range of countries and issues involved:
- 8.10 The **Canadian** Identity Screening Regulations section 5.2 (1) reads: "An air carrier shall not transport a passenger if [...] (c) the passenger does not appear to be of the gender indicated on the identification he or she presents." This regulation could pose problems for anyone travelling

to or from Canada with a passport showing 'X' as Canada only recognise Male and Female genders.

8.11 In **Indonesia**, transgender or non-gendered people are considered to be mentally handicapped and are not protected under the law, therefore anyone traveling to or from Indonesia with a passport showing 'X' could encounter serious issues.

8.12 "Cross dressing" is illegal in **the United Arab Emirates** and can lead to imprisonment and deportation. Anyone traveling to or from the United Arab Emirates with a passport showing 'X' could be identifying themselves to authorities who make take action against them as only Male and Female genders are recognised.

8.13 **Malaysia** is reported to be planning not to show any gender markers in their passports, although there is no confirmation from their government or ICAO at present whether this is in fact true. If it were to progress, it would contravene ICAO passport standards.

8.14 **Australia** have responded to our questions and confirmed that since September 2011 sex and gender diverse applicants may be issued a passport in M (male), F (female) or X (indeterminate/unspecified/intersex). To date, they have only issued 11 passports with the gender marker 'X'. They have no plans to remove gender from their passports, passport application forms or passport records.

8.15 So far they have not encountered any difficulties with third countries on a political or policy level regarding their decision to include 'X' as a gender marker in their passports and have not heard of any of their citizens encountering any such difficulties or impediments to travel or access to any service because of this marker. This may be however because the Australian Passport Office issues a letter to citizens that request 'X' in their passport advising them that they are responsible to ensure that the passport meets the entry requirements of the countries they intend to visit and strongly recommend they contact the relevant Embassy or Consulate for information on entry requirements. The letter also states that the Department of Foreign Affairs and Trade cannot guarantee that a person showing 'X' in the sex/gender field of a passport will be accepted for entry or transit by border control authorities of another country.

The criteria for the inclusion of 'X' in the Australian passport is that:

- The applicant must be 'intersex' or of 'indeterminate sex' and not identify with the sex assigned to them at birth.
- The applicant must provide a statement from a medical practitioner or psychologist registered with the Medical Board of Australia, Psychology Board of Australia or equivalent overseas authority, certifying that the person has had, or is receiving, appropriate clinical treatment for gender transition to a new gender, or that they are intersex and do not identify with the sex assigned to them at birth.

Additional information provided by GIRES in response to the request to publish the document

Part 1 (general)

"I recall that most if my evidence related to those outside the gender binary. There is no mention of this in the evidence attributed to GIRES. You will recall that I stated very clearly that the priority was to include non gendered people in your processes (absolutely excluded at present). I was told specifically that IPS had to follow the Birth Certificate when allocating gender markers to passports but could make an exception for some trans people based on Public Law. This is inherently unfair on those who are outside the gender binary and the excuse that it is somehow related to security is unfounded and was easily demonstrated as such

Part 2 (giving specific comments)

Gender Identity Research and Education Society (GIRES)

The main aim of GIRES is to help trans people and their families to get through the difficult time that is the transition of one of the partners to the opposite gender role. GIRES also provides support for young people who are gender dysphoric. The charity has a keen interest in the medical aspects associated and supports research into issues associated with gender dysphoria.

8.14 A full listing of the activities of the charity can be found at www.gires.org.uk

A meeting with GIRES was requested by HMPO (then IPS) in order to explore in more depth the issues related to the (then) IPS in the Trans Community Statement of Need that informed the government Transgender Action Plan. This occurred in December 2012.

To be awarded a Gender Recognition Certificate (GRC) under the 2004 GRA, the applicant must be able to demonstrate that he/she has lived in the non birth recoded gender for at least 2 years. In order to ensure that the ID matches the gender appearance, HMPO allows the issue of a passport in the non legal gender. The award of such a passport currently requires a doctor's letter, stating that the change in gender role is likely to be permanent.

Of course, the doctor will only write what he/she is told to write by the patient. In effect, the GP is acting as a 'highly paid scribe' (as there is often a substantial charge for the letter) and the doctor has absolutely no idea if the change will be permanent. Furthermore, some GPs are hostile to trans patients and trans people do not wish to interact with such people. There is also the question of confidentiality. The generation and filing of the letter will involve third parties and may trigger further transphobia within the practice.

The GIRES proposal is to use the same approach as is used in a GRC application namely the GRC applicant swears a statutory declaration to say that the change of gender role will be permanent. Not only will this avoid an unnecessary interaction with the GP, it will cost considerably less than a doctor's letter and will have greater credibility than a letter signed by a GP. This would be done in conjunction with some form of name change document, likely to be either another statutory declaration or a deed poll.

Of course, it is perfectly lawful to assume a new name consistent with the gender role and, provided that its use does not involve any form of fraud, this is perfectly legal without any formal name change documentation. To cater for such folk, (Her Majesty's) Passport Office should consider accepting

evidence that they have been using that name for 2 years, together with a statutory declaration to confirm that the change of gender role is permanent.

GIRES is most concerned at the treatment of those outside the gender binary when it comes to having ID appropriate to appearance. Of particular concern is the passport. Those outside the gender binary have exactly the same problem that other trans people have and that is being stuck with an inappropriate gender label. However, the Passport Office allows a transsexual person (with or without the intent of genital surgery) to have an ID that does not match their legal gender. The Passport Office is asked to implement the X marker system option for those outside the gender binary to end. GIRES was advised at the consultation session last December that the passport must follow the Birth Certificate but a special dispensation has been made for trans people who identify with the gender binary. This is seen as fundamentally unfair on those outside the gender binary. Those outside the gender binary also require ID appropriate to their appearance as this is often ambiguous and would aid those responsible for checking such ID at airports etc.

GIRES contends that the argument that such a provision would be a security concern is unfounded. Currently a trans person can have a passport that shows the non legal gender (whether or not the person has had genital surgery or not). Indeed, even with a GRC, the new legal gender need not match the physical gender. “