

Goodwin & 'I' v. United Kingdom Government

What We Need To Do Now

The decision in Goodwin & I v UK Government held that the government's failure to alter the birth certificates of transsexual people or to allow them to marry in their new gender role was a breach of the European Convention on Human Rights.

The government has accepted that it must implement the decision. They have further accepted that the government and the English courts must interpret English law to follow the ECHR's decision.

Consequently we are encouraging everyone to go ahead now, and take advantage of the wonderful ECHR court victory by claiming their rights.

The government needs to change the law in order to clarify it. They have given themselves a timetable; to spend the summer looking at the matter to arrive at proposals in the autumn.

Our job as PFC activists is to ensure the law is changed, as soon as possible, in such a way that it enhances the rights of all trans people (which is not the same as making legal status recognition available for all trans people or mandatory for trans people who do not wish to have recognition of a new legal status).

PFC's mission statement also means we have a responsibility to ensure that it doesn't remove rights from any other group of people, and if possible it also enhances the rights of others, especially those in oppressed minority groups.

Obviously, we will be continuing to work through all available channels, in government, the media, and the web to press the government into action ... but there are several ways in which we would suggest PFC activists and other trans people take individual action **now**.

Action 1: ASK YOUR MP TO FORCE ACTION

1. Write to your MP, at the House of Commons, London WC1A 1AA. Explain a little about your personal situation, and how awful it has been for you not to have legal recognition and the right to marry.
2. Ask your MP to keep you informed as to when, and in what way, the law is going to be changed, in the light of the decision of the European Court of Human Rights in the case of Goodwin & I v UK Government.

Action 2: EXPRESS YOUR VIEWS TO THE INTERDEPARTMENTAL WORKING GROUP

1. Write to the Interdepartmental Working Group on Transsexual People, Constitutional Policy Division, Lord Chancellor's Department, 1st Floor, Southside, 105 Victoria Street, London. SW1E 6QT .

2. Explain you are a transsexual person and give a little insight into your situation.
3. Endorse the submissions made by PFC in Annex 3 of the report from April 2001 as the chosen solution to the problems that you as a transsexual person face.
4. Copy this to your MP, at the House of Commons, London WC1A 1AA.

Action 3: APPLY FOR A CHANGE TO YOUR BIRTH CERTIFICATE

1. Write to the General Register Office, Corrections and Re-registration section
Room D209, Smedley Hydro, Trafalgar Road, Birkdale, Southport, PR8 2HH
Telephone: 44 (151) 471 4806
email: corrections.&.re-reg.section@ons.gov.uk
2. State you would like your birth certificate changed to reflect your 'new' gender and 'new' name.
3. State your full new name, old name, date of birth and place of birth and (if you have it) the number of your birth certificate (send a photocopy if you can).
4. State what date you commenced permanently living full time in your new gender.
5. State you have undergone gender reassignment treatment (please DO NOT indicate your surgical status- that is a medical matter), and that you wish to apply for a change to your birth certificate in the light of the ruling of the ECHR in Goodwin & I v UK Government.
6. Include your statutory declaration of name change and your doctors letter indicating that the change is intended to be PERMANENT.
7. Ask the registrar if there is any further evidence you need to provide in order for them to change your birth certificate to reflect your new sex.
8. Copy all the correspondence to your Member of Parliament, at the House of Commons, London WC1A 1AA.
9. Include a cover note to your MP asking that they chase up this matter and ensure it is expedited in view of the long time you have had to wait to date for this.
10. You will receive a letter back explaining that the registrar general is not going to change your birth certificate until UK law has been changed. Copy that to your MP.
11. From then on, take a note of any situation in which you are asked for your birth certificate, or you are referred to by your old gender or where records of your old gender are kept (e.g. when signing on). Keep a diary. This may enable you to claim damages in the future and it will also enable PFC to seek advice on taking a class action for judicial review of the government's failure to act.

Action 4: GETTING MARRIED

1. If you have had some sort of gender reassignment surgery, and wish to marry an opposite gender partner (i.e. born the same birth sex), or if your partner is a transsexual person who is the opposite gender to you, then PFC believes that you can go ahead now.
2. PFC believes that you now have no obligations, as yet, to inform the registrar of your trans status, but you would do well (in light of the ECHR judgment) to ensure that your future spouse does know.
3. For information on how to get married go to:
<http://www.gro.gov.uk/gro/content/marriages/index.asp>
4. The preferred method of proving your identity, as detailed by the registrar general, is your passport.

5. If there is any objection from the registrar or church (or other religious body), please let us know ASAP by email to letters@pfc.org.uk Please keep a copy of all documents or a diary note of any conversations that take place with registrars as this will help to fight your case if it comes to court.
6. If there is an objection, write to your MP at the House of Commons, London WC1A 1AA and ask them to investigate the refusal.
7. Since *UK* law has not yet been changed, you would still technically be open to prosecution for perjury if you get married now, before a change of birth certificate has been enacted. However, PFC is aware of no cases in the past 25 years where such a prosecution has been brought, and if you were to be prosecuted now, you could cite the ECHR judgment in defence. If a court were perverse enough to convict you of perjury, you could mount a fast-track appeal to the ECHR asking for the judgment in Goodwin & “T” to be applied to your case — it’s an accelerated process, and would not require a full hearing.
8. PFC would obviously do what we could to support and assist any trans person in any legal hassles that arose after marriage — it would be an important test case. Similarly, we would want to try to assist and support anyone who sought judicial review of a registrar’s refusal to marry you.
9. If you do decide to go ahead, and if you are interested in publicity, then positive media coverage will be available. As you will be aware, the Independent daily newspaper and the Independent on Sunday have both given us good coverage over the years. Sophie Goodchild, the home affairs correspondent of the Independent on Sunday, would be interested in covering your story sympathetically, from a human interest angle — preferably as an exclusive, but that would be up to you to decide. Her email address is s.goodchild@independent.co.uk

Action 5: STATE PENSIONS

1. If you are an mtf trans woman, and you were refused your state pension at the age of 60, you may be able to claim damages, for the difference between social security and the state pension. In order to do this you need to contact your local Citizens Advice Bureau and ask them to help you prepare a claim. The relevant department is: **Inland Revenue (Special Section D), National Insurance Contributions Office, NI Services to Contributor, Benton Park View, Newcastle Upon Tyne, NE98 1ZZ, Helpline:** Monday to Friday, 8:00 am to 5:00 pm 0845 915 4811, Fax: 0845 915 7800.
2. If you are an mtf trans woman approaching 60, the Inland Revenue can use their discretionary power to award you your pension (as indeed they have just done for someone born in New Zealand and who has had their Birth Cert changed over there). Again contact Special Section D as above.
3. For younger mtf trans women: go to <http://www.pensionguide.gov.uk/calculator/calc.html> and work out when you would be entitled to your pension under the new rules which allow for the gradual equalization of pensions. Discover at what age you would normally retire if born female. If that is under 65, again ask the Inland Revenue to use their discretionary power to award you a pension at that age. Again contact Special Section D as above.

Action 6: THE CRIMINAL RECORDS BUREAU

If you are in a job (such as teaching, nursing, social services or even a volunteer for activities with children or vulnerable people) which requires a Criminal Records Bureau check, then currently you are required to disclose any former name on the application form. This has to be countersigned by the employer's CRB registered person. This is often a staff member within Personnel or Human resources. The registered person has an obligation to only use the information for the relevant process. In other words, they must not disclose your trans status or former name any further within the company.

However the principle of privacy embodied in the Goodwin & I decision, is such that this could be found to be a breach of your human rights.

This action is for ALL trans people, regardless of whether you are directly affected.

1. Write to Bernard Herdan, Chief Executive, Globe House, Eccleston Square, London, SW1V 1PN.
2. Explain that you are trans, and that any disclosure within the workplace could lead to discrimination as well as being a breach of your privacy.
3. Explain that trans people are very vulnerable, and that it is illogical if the CRB's role to protect the vulnerable, leads to another group of vulnerable people (who have committed no offence) being victimised.
4. Suggest that the CRB could easily set up a system whereby trans people could 'pre-register' with the CRB, in order to resolve the problem of privacy whilst still ensuring the need to do full and complete checks to protect vulnerable people.
5. State that you are looking forward to prompt action on this matter.
6. Copy the letter to your MP at the House of Commons, London, WC1A 1AA, and ask them to pursue the matter with the CRB and the Home Office.

Action 7: SPECIFICALLY FOR FTM TRANS MEN

(though all the women could help)

Ftm trans men are likely face particular problems if the government goes down the 'genital surgery' before any rights route. PFC has clearly stated its' position on that route, but we need to emphasize the problems it might cause.

It is imperative that phalloplasty does not become the basis for determining whether someone is a man.

1. Write to your MP and the Interdepartmental Working group on Transsexual People (for addresses see Actions 1 and 2 above).
2. Explain that:
 - o phalloplasty is a multi-stage operation,
 - o requiring 6 or many more stays in hospital.
 - o it is expensive: from Â£25,000 plus as a starter
 - o there is only 1 surgical team in this country performing such surgery
 - o it is rarely successful in providing an aesthetic, sexually functioning organ through which urine can be passed.
3. Ask your MP and the Working Group to ensure that any government legislation does not penalise female to male transsexual men because of the general unavailability and/or poor success rate of female to male surgery.

ALL OF THESE ACTIONS will further the rights of trans people in the United Kingdom. Please act now.