



Transgender Equality Network Ireland - 2nd Stage Briefing Note for TDs on the Non-Binary and Intersex Recognition Bill 2026

20 October 2026

A. Introduction

1. Transgender Equality Network Ireland (TENI) is Ireland's national transgender organisation, committed to advancing equality and inclusion, and improving the lives of trans people and their families in Ireland. Since 2006, we have been working across Ireland to support trans people and their families, providing education and training, advocating for legal and policy change and building a fairer, safer and more inclusive Ireland for all.
2. In 2015, Ireland made history with the passage of the Gender Recognition Act¹, becoming one of the first countries in the world to enshrine the right to self-determination for trans people. As a result, trans men and women can change legal gender, and update passports and other documents, with a straightforward administrative process.²
3. However, progress has stalled since 2015, and many people remain locked out of the gender recognition process. Among these are non-binary people, who have been left in a legal limbo for nearly a decade. In the meantime, other countries and the European Union have moved forward.
4. TENI has been long calling for the expansion of the gender recognition process to non-binary people³ and we welcome the opportunity to inform the Dáil 2nd stage discussion of the Non-Binary and Intersex Recognition Bill 2026. Our organisation supports the aim of the Bill and is keen to engage with TDs on the specifics of the legislation, including by providing recommended amendments, at 3rd stage.
5. By means of this short briefing note, we provide information on the relevance of legal gender recognition for non-binary people, the limitations of the current legal system, international best practice and areas that would require additional consideration at later stages of the legislative process of the Bill. While our briefing focuses on non-binary recognition, we urge TDs to engage with intersex groups and recognise and address the degree to which intersex people are invisible in Irish law, directly reflecting in the absence of core legal protections from harm and discrimination.

¹ [Gender Recognition Act 2015](#)

² In some countries, legal gender recognition comes with inhumane requirements including diagnosis of a mental disorder, sterilisation and forced divorce. See TGEU, [Legal Gender Recognition](#), last accessed 15 October 2026.

³ Most recently in a joint submission with other 22 LGBTQI+ Irish Organisations to inform the UN Universal Periodic Review of Ireland. TENI, Belong To, LGBT Ireland, "[Advancing Human Rights - Coalition of LGBTQI+ organisations' submission to the 4th Universal Periodic Review for Ireland](#)", April 2026.

B. Legal gender recognition: what it is and why it matters for trans and non-binary people

6. Legal gender recognition allows trans and non-binary people to change their gender (and name, if they wish) on legal documents to correspond with their identity. This can include passports and other IDs.
7. While not every trans or non-binary person will want to avail of it, the ability to legally change gender and/or name is fundamental as it enables people to navigate the world with dignity, safely, and access services. In 2025, TENI conducted a consultation with the non-binary community on legal gender recognition, and confirmed that this remains an important goal for our community, and that the majority of non-binary people who participated would avail of legal recognition of their non-binary identity.
8. Access to legal gender recognition has a major impact in one's life. Official identification is requested in endless circumstances - e.g. to travel, when getting a new job - and documents that do not reflect the correct gender and/or name can cause several issues. Among these, threaten a person's safety and lead to discrimination or harassment, prevent them from accessing essential services and cause emotional distress in the form of gender dysphoria.

C. How non-binary people – among others – are excluded from legal gender recognition

9. Legal gender recognition is provided for in different ways across countries. In Ireland, it is regulated by the Gender Recognition Act (GRA) 2015, which introduced a system to change legal gender (and name, where desired), and provided a mechanism to have that recognised across birth certificates and identity documents.
10. Under the GRA, this process is available to adults (over-18s) through an administrative process. A more complex, onerous and expensive process is also in place for 16- and 17-year-olds, who are required to obtain parental consent, two medical referrals and a court exemption before they can apply.⁴
11. Importantly, under the GRA, trans people can only legally change their gender from male to female and female to male. The lack of a third option prevents non-binary people from accessing the process, practically resulting in every non-binary person in Ireland being forced to choose if they want to have a male or female passport, birth certificate, and other official documentation. Intersex people are also affected by existing gaps.
12. While outside of the scope of this Bill, it is key to note that in addition to non-binary people, other groups are blocked out of the gender recognition process, namely trans people under the age of 16 and Irish Citizens in Northern Ireland who do not reside in the State. Legal gender recognition should also be extended to these groups as a matter of urgency.

⁴ Criteria to qualify for a Gender Recognition Certificate, process and support documents outlined in Department of Social Protection, [Apply for a Gender Recognition Certificate / Revised Birth Certificate](#), last accessed 14 October 2026.

D. Progress stalled: almost 10 years of inaction from the review the law

13. In 2018, the GRA was reviewed and several recommendations were made to improve the operation of the Act, including specifically in relation to non-binary recognition:

- Recommendation 2A: Legal gender recognition should be made available to people who are non-binary.
- Recommendation 2B: As part of cross Government departmental review of proposed legislative amendments an impact assessment may be considered.
- Recommendation 2C: In the immediate term, Government Departments and other public bodies should take any positive steps they can take to improve the position of people who are non-binary.⁵

14. In 2019 the Minister for Employment Affairs and Social Protection published a response to the report, setting out proposals for change⁶. In relation to recommendations 2A, 2B and 2C of the 2018 Review report the 2019 Minister's report provided that the Department of Social Protection had consulted with other Departments and carried out an initial scoping exercise of legal implications of non-binary recognition which pointed towards the need for a deeper level of impact assessment. In light of this, an Interdepartmental group was established to progress the impact assessment, with work due to be completed by the end of 2020.⁷

15. As of today, no substantial progress has been made to implement the recommendations in the 2018 Review and related 2019 Minister's Proposals, including on non-binary recognition. This, despite the recommendations were referenced in the first National LGBTI Inclusion Strategy 2019-2021⁸, in the Department of Social Protection's Statement of Strategy 2023-2026⁹ and in the National LGBTIQ Inclusion Strategy (NLIS II)¹⁰ and associated Action Plan 2025-2026¹¹.

16. The most recent progress report of NLIS II contains an update on the state of implementation of the two actions related to legal gender recognition. While it is positive to learn that the Department of Social Protection has completed a review of Draft Heads of Bill, it is concerning that the inter-departmental working group - which

⁵ Department of Social Protection, [Review of the Gender Recognition Act 2015 - Report to the Minister for Employment Affairs and Social Protection](#), 17 July 2018, p. 109-110. Chapter 6 provides specific analysis on People who are Non-Binary and Intersex.

⁶ Department of Employment Affairs and Social Protection, [Gender Recognition Act 2015: Report to the Oireachtas under Section 7 of the Act](#), 26 November 2019.

⁷ Ibid, p. 9-10.

⁸ Government of Ireland, [National LGBTI+ Inclusion Strategy 2019-2021](#), p. 20.

⁹ Department of Social Protection, [Statement of Strategy 2023-2026](#), p. 19.

¹⁰ Department of Children, Disability and Equality, [National LGBTIQ+ Inclusion Strategy II 2024-2028](#).

¹¹ Government of Ireland, [National LGBTIQ+ Inclusion Strategy II: Action Plan 2025-2026](#), p. 22.

was meant to complete its work 6 years ago - is still pending finalisation of membership and workplan.¹²

17. Looking at Irish law more broadly, the GRA would not be the first instrument to recognise a gender different from male and female. In 2024, the Criminal Justice (Hate Offences) Act positively constructed the protected characteristic of “gender” as explicitly inclusive of “a gender other than those of male and female”.¹³

E. Beyond Ireland: Non-Binary recognition in other jurisdictions and EU law

18. While Ireland is still an international leader for self-determination - only used by 12 countries in the EU - we are falling behind due to our delays to expand the gender recognition process to excluded groups, including non-binary people.
19. As of 2026, Austria, Germany, Iceland and Malta provide for non-binary gender recognition on all identity documents. This is often implemented through an X gender marker on identity documents,¹⁴ our recommended approach for non-binary recognition in Irish passports.
20. Over the years, the Court of Justice of the EU (CJEU) - EU’s highest court - has delivered a series of judgments that recognise and reinforce the rights of trans and non-binary people in Member States, including in the area of legal gender recognition¹⁵. Of particular relevance are:
 - the 2024 *Mirin* case¹⁶, in which the CJEU ruled that name and gender marker changes made in one EU country must be automatically recognised by other EU countries;
 - the 2025 *Mousse* case¹⁷, where the CJEU recognised non-binary people’s existence and needs for the first time. In the case, the CJEU ruled that EU’s General Data Protection Law (GDPR) provides protections for trans and non-binary people, and under EU law everyone is protected against gender identity discrimination, including non-binary people.
 - The 2026 *Shipova* case¹⁸, where the CJEU found that all EU Member States must provide for legal gender recognition to guarantee freedom of movement.
21. Ireland’s inaction on non-binary recognition is therefore going against growing trends within the EU, and ignores recognition within EU law.

F. The Non-Binary and Intersex Recognition Bill 2026

22. The aim of the Non-Binary and Intersex Recognition Bill 2026 is to:

- provide for the recognition of a non-binary gender and for those born intersex;

¹² [NLIS II Progress Report January to June 2026](#). In relation to the Draft Heads, the proposed next step identified is “Draft heads will need to be referred to the relevant Dáil committee for pre legislative scrutiny.”

¹³ [Criminal Justice \(Hate Offences\) Act 2024](#)

¹⁴ [ILGA-Europe 2026 Rainbow Map](#), Legal Gender Recognition.

¹⁵ See detailed analysis in TGEU, “[The Trans Rights Revolution, An Activists’ Guide to the Groundbreaking CJEU Cases 2024-2025](#)”, 2025.

¹⁶ [Mirin \(C-4/23\)](#), Judgment of the Court (Grand Chamber) of 4 October 2024.

¹⁷ [Mousse \(C-394/23\)](#), Judgment of the Court (First Chamber) of 9 January 2025.

¹⁸ [Shipova \(C-43/24\)](#), Judgment of the Court (Second Chamber) of 12 March 2026.

- to amend the Gender Recognition Act 2015 to recognise a non-binary gender;
 - to amend the Interpretation Act 2005 to include a non-binary gender;
 - to amend the Civil Registration Act 2004 to allow qualified informants to record an X on Registers for Births, Stillbirths, Adoptions, and Death;
 - to amend the Equal Status Act 2000 and the Employment Equality Act 1998 to outlaw discrimination based on sexual characteristics.¹⁹
23. TENI supports the aim of the Bill to introduce recognition of non-binary identities and is keen to engage on the specific provisions at 3rd stage. We note that additional considerations will need to be given to ensure among the other that (a) amending provisions strengthen and do not inadvertently reduce the legal protections and recognition of trans and non-binary people (b) the principle of data minimisation is used to inform and construct any reference (or non-reference, as TENI would recommend) to gender markers (c) provisions related to parenthood to recognise non-binary parenthood.

G. Conclusion

24. In 2015 Ireland passed a pioneering legal gender recognition law and for this reason, we remain a leader in this legislative area. However, many people are failed by lack of inaction to expand the legal recognition process to all members of the trans and non-binary community, as well as intersex people.
25. The delay in implementing the 2018 Review recommendations, the lack of implementation of policy commitments in this area, unmatched progress from other countries and explicit protections in EU law point towards the urgent need to deliver on long overdue changes that would enable non-binary people to be recognised by the State.
26. TENI remains available to provide more information and engage at future stages of the Bill and/or future work on legal gender recognition reforms.²⁰

¹⁹ [Non-Binary and Intersex Recognition Bill 2026](#), as initiated.

²⁰ For additional information: Luna Lara Liboni (they/them), Research and Policy Manager, luna@teni.ie.