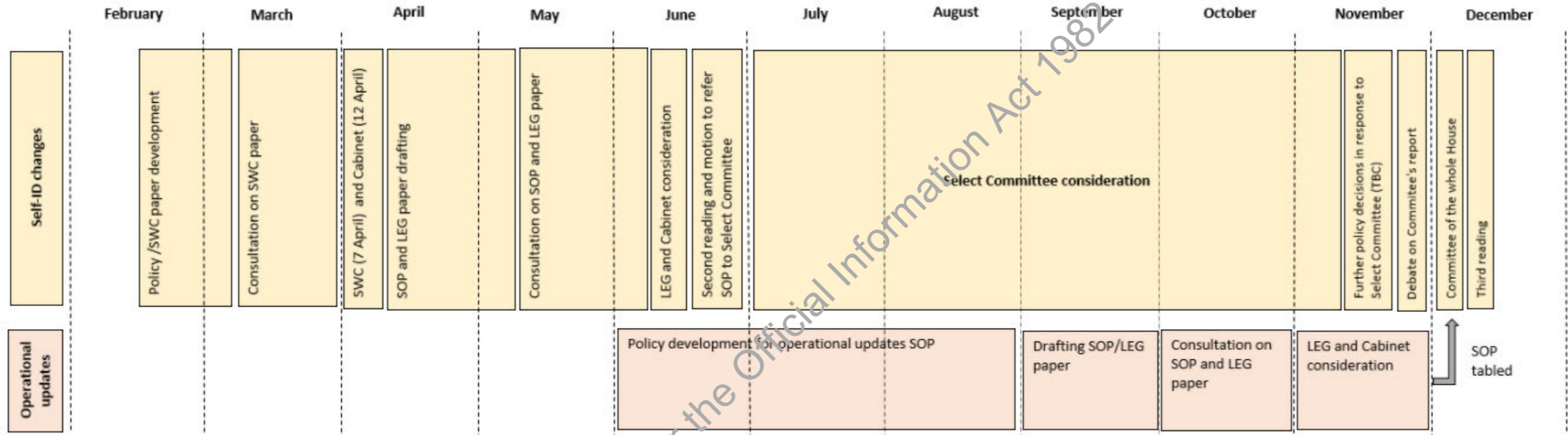


Indicative timeline for progression of the BDMRR Bill



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Key messages

- The Minister of Internal Affairs intends to progress the Births, Deaths, Marriages and Relationships Registration Bill (the Bill). Self-identification will make a real difference for the transgender and intersex communities and should not be further delayed.
- People can already have their gender recognised on their birth certificate, but the process is difficult. It requires producing medical evidence of a change in gender and a Family Court decision. This process is inaccessible for many people, as it is lengthy, costly, and can be unnecessarily intrusive.
- The self-identification amendments will make it easier for transgender people to use their birth certificates to access services. This change supports the Government's goals of improving social cohesion and inclusion, which is particularly important for this group who can experience poorer social outcomes due to discrimination.
- The parties affected are a minority group who have been marginalised by unequal access to a document that matches their gender. Changing to a self-identification process is a step in the right direction to address this issue.
- The Government is committed to ensuring an open and inclusive society for everyone but consideration of these issues takes time. The Bill was deferred because of concerns around a lack of public consultation on this issue. I am sending the statutory-declaration clauses to Select-Committee so that the public may be consulted on this issue.
- I have also released the report of the Working Group for Reducing Barriers to Changing Registered sex and the Government response. The Working Group was established to provide advice on how to reduce barriers to changing registered sex on birth certificates through the current process. The Working Group report and Government response can be found here: [website].

FAQs

BDMRR bill FAQs

Why is it taking so long to address the self-ID issue for the transgender and intersex communities?

- The Government is committed to ensuring an open and inclusive society for everyone but consideration of these issues takes time. The Bill was deferred because of

concerns around a lack of public consultation on this issue. To address this, I am referring the self-identification process change matter back to Select Committee.

- The self-identification proposal generated strong public opinion. The public submissions on the Bill, and the public debate since, have aired many of the arguments around a self-identification process. The public will have another opportunity to express their views as I'm sending the self-identification clauses to back to Select Committee for further consideration. This means that people and groups who wish to submit on the clauses will have the opportunity to do so.

Why are you allowing people to change their birth certificates?

- A provision to change the sex marker on a birth certificate has been available since 1995. This process allows individuals to change the sex on their birth certificate through the Family Court, but the process is inaccessible for many people. The Act requires a person to undergo medical treatment that meets certain criteria and identify as either male or female (there is no non-binary option). The current process is also lengthy, intrusive, and can be costly. The government is removing some of these barriers to people who wish to change the sex marker on their birth certificate.

Can't we just take gender or sex off the birth certificates? / Why do we even have gender or sex on a birth certificate?

- Birth certificates are sometimes used as evidence to access services. Sex is sometimes a factor that service providers want to use as part of identity checking.
- Some transgender groups have indicated that for some people, having a birth certificate that matches their gender is affirming.

Why does a birth certificate use a sex marker not a gender marker?

- Gender isn't known at birth, only sex is. It's only as people grow that they grow to understand their gender identity.
- People now often use their birth certificate to help prove their current identity, so it's important that they can do this with a foundational identity document that matches their gender identity.

When will we have a chance to comment on Select Committee's proposed clauses?

- The Government understands that self-identification is a significant issue for many New Zealanders. I am referring the self-identification clauses back to select committee later this year so the public will have an opportunity to comment then.

What would Select Committee's clauses do, if enacted?

- The new provisions will replace the Family Court process. Instead, people will apply to the Registrar-General with a declaration that affirms their gender identity.

How will you protect women's rights to sex segregated spaces if self-identification is introduced?

- At the moment we rely on people's integrity to honour gender-specific spaces, and that won't change. A self-identification process doesn't change the protections for sex segregated spaces. For example, a birth certificate is not required to get into a women's changing room.
- People have been able to change the sex on their birth certificate since the Births, Deaths, Marriages and Relationships Registration Act 1995 was first enacted and we haven't seen any evidence of this being abused.

What's the international view on this issue? I heard the UK stopped self-identification going through.

- The UK Government consulted the public on the option of introducing a self-identification process and subsequently decided to not introduce it. There was significant opposition, much of which was along similar lines to the opposition here.
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- Since 2012 at least 15 other countries have introduced a self-identification process. Notably in Australia, Victoria and Tasmania have both introduced self-identification processes.
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- There is also a significant amount of international human rights discourse on this issue that suggests a self-identification process is an important improvement on any process requiring medical treatment. However, New Zealand is not obligated to introduce a self-identification process by any international agreements.

Why can you currently change your gender on passports, but not birth certificates?

- The provision for changing the sex marker on a birth certificate is in legislation whereas passport gender requirements were able to be changed without legislative reform.

What's the big deal with birth certifications - can't people just use other documents, like their passport to access services?

- Yes, passports have a self-identification process for listing sex. But birth certificates are often a practical document to use when accessing services as they are relatively inexpensive and do not expire.

Why was the Bill deferred?

- The bill was deferred because of limited public consultation on the self-identification provisions.
- New provisions changing the way people could change the sex recorded on their birth certificates were included in the Bill at the select committee stage in response to a petition for the introduction of a self-identification process.
- Self-identification means that those wishing to change the sex recorded on their birth certificates no longer have to go through a court process or require evidence of medical treatment.

What else does the Bill do?

- The Bill re-enacts the Births, Deaths, Marriages and Relationships Registration Act 1995. It makes changes to improve people's ability to search for birth, death and marriage records online before ordering official documents, makes a range of operational changes, modernises the drafting of the Act and enacts three recommendations from the Law Commission's review of burial and cremation law.

Working group FAQs

When is the government going to respond to the Working Group's report?

- The Working Group was created in 2019 to look at the barriers to the current process for changing the registered sex on a birth certificate. The Working Group made a suite of recommendations to improve the current process for changing the sex marker on a

birth certificate. The recommendations were intended to provide an interim measure until self-identification can be implemented.

- As of [date] the report of the Working Group and its recommendations are available on the Department of Internal Affairs website, along with the Government's response to the Working Group's report: [website](#).

Why do we need self-identification - doesn't the Working Group report solve the issue?

- Government actions on the Working Group's recommendations will make it easier to navigate the Family Court process. However, most of the cost barriers won't be addressed through the operational changes. The Family Court process will still be arduous.
- Responding to the Working Group report's recommendation is an interim measure until we can implement a self-identification process.
- I want to also make clear that responding to the Working Group report is a separate issue from progressing the Bill. Some of the Working Group's recommendations, for instance, are not related specifically with the process for changing recorded sex.

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From: JONES, Robert (WELLHO) s 9(2)(a)

Sent: 26 February 2021 8:47 a.m.

To: Jono Dowson s 9(2)(a); Hannah Pattinson

s 9(2)(a) HUDDLESTON, Matthew (WELLHO)

s 9(2)(a)

Cc: POWELL, Rebecca (WELLHO) s 9(2)(a)

Subject: FW: RE: BDMRR Bill C132479 - MIN OFF REquest - Update on the MIN OFF REQUEST - Update on the Births, Deaths, Marriages and Relationships Registration Bill BDMRR

Importance: High

Kia ora Jono

Minister Tinetti is proposing to progress the Births, Deaths, Marriages and Relationships Registration Bill (BDMRR), which stalled in 2018/19.

DIA have developed external FAQ communications about the Bill (attached) to release to media. Corrections have no significant feedback on the external communications,

Attached is a timeline developed by DIA for the progression of the Births, Deaths, Marriages and Relationships Registration Bill (BDMRR), starting with a paper to SWC.

DIA plan to to introduce a Supplementary Order Paper (SOP) for the self-identification portions of the bill and a SOP for operational changes.

Minister Tinetti is proposing to keep the Select Committee changes to the BDMRR Bill (the ones that changes the process for sex on birth certs from a family court process to a statutory declaration process). This would be done via the SOP going through Select Committee.

The other SOP would make some operational changes to do with access provisions to enable Births, Deaths and Marriages operations to carried out more effectively. This one wouldn't go through Select Committee, and would be tabled at Committee of the whole House.

Impact on Corrections

Before the Bill was deferred in 2018/19, Corrections developed Corrections Regulations 2005 changes to address the impact of the Bill on our management of transgender people in prison (see attached briefing)

These changes would amend clause 22i of the BDMRR Bill to reserve Corrections' right to determine a prisoner's sex for placement.

At this stage, the Corrections Regulation changes could potentially be introduced as part of the

self-ID SOP subject to Ministerial approval (subject to Ministerial approval of course).

DIA are checking with PCO tomorrow about DIA being able to amend the Corrections Regs 2005 as a consequential amendment. If this method is not an option, Corrections will consider the changes through a future set of Corrections Regulation amendments.

Please let us know if you require any further update at this stage. We will keep you update as the Bill progresses.

Ngā mihi, Rob

Robert Jones

Manager Ministerial Services

Ara Poutama Aotearoa, *Department of Corrections*

Wāhi mahi: Freyberg Building, 20 Aitken Street, Wellington | Private Bag 1206, Wellington 6140

s 9(2)(a) [Redacted]
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