

A PRISONER'S
GUIDE TO
TRANS RIGHTS

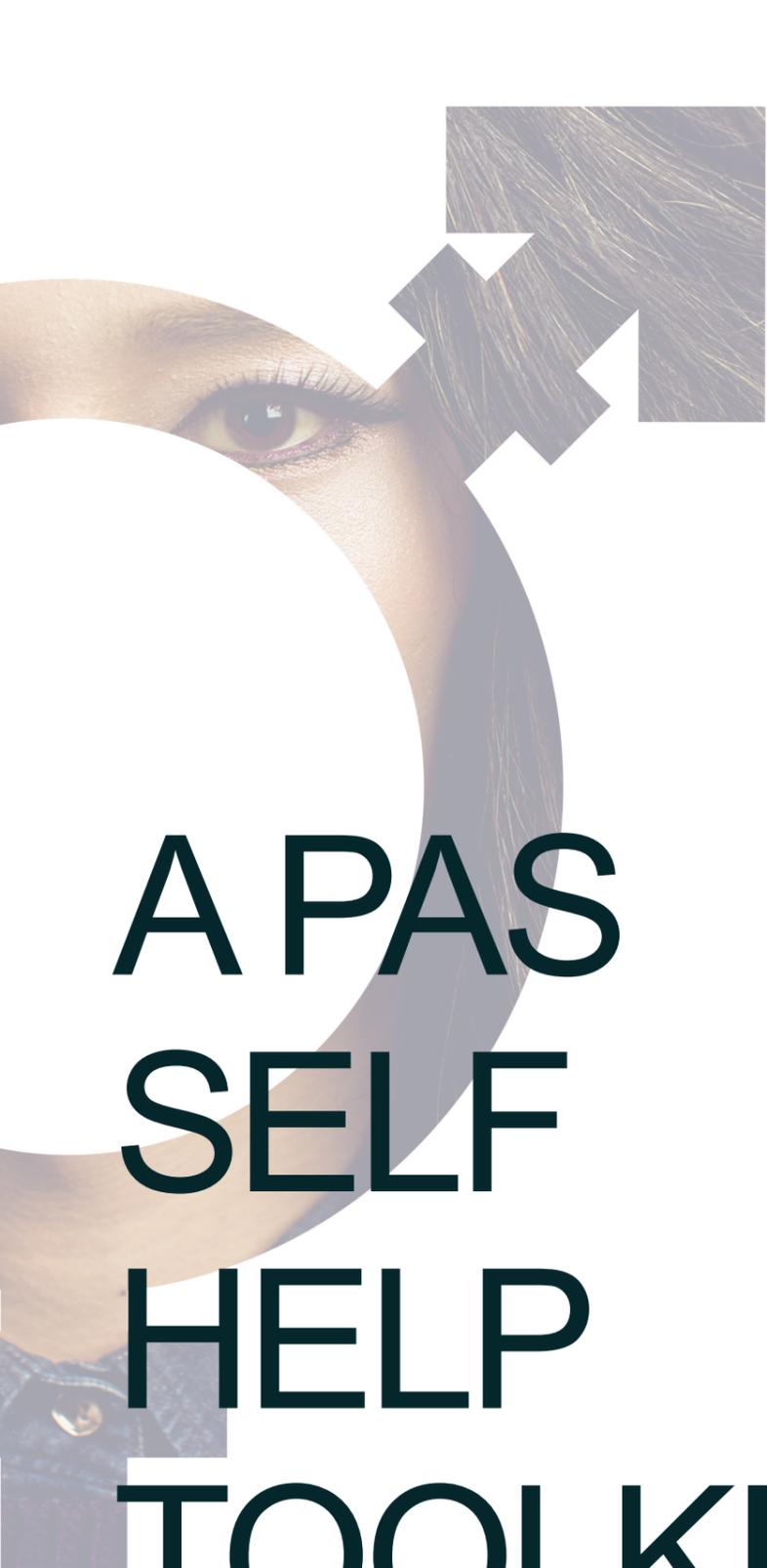


PRISONERS'

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ADVICE

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SERVICE

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JUSTICE BEHIND BARS



A PAS SELF HELP TOOLKIT

PRISONERS' ADVICE SERVICE

THE INDEPENDENT LEGAL CHARITY PROVIDING INFORMATION AND
REPRESENTATION TO PRISONERS

JUSTICE BEHIND BARS

A Prisoner's Guide to Transgender Rights

Introduction

This toolkit has been produced by Prisoners' Advice Service (PAS) and is aimed at those prisoners who identify as transgender. We use the term transgender throughout this guide to mean a person who does not identify with the sex they were assigned at birth. For example, the term transgender can include:

- a transgender woman (i.e. a person born male/assigned male at birth but who now lives as a woman)
- a transgender man (i.e. a person assigned female/born female at birth, but who now lives as a man)

This toolkit may also assist those who:

- identify as non-binary (i.e. those who do not identify as either male or female) or;
- are gender fluid (i.e. they can express themselves as either male or female at any given time) or;
- are questioning their gender identity

The purpose of the toolkit is to provide transgender prisoners with practical information about prison rules and procedures, and laws on discrimination and human rights. We hope that by providing this information you will be empowered to claim the rights that entitle you to identify in ways that are appropriate to you and to be treated respectfully according to the way you identify. We hope that you will feel able to challenge inappropriate behaviour and unlawful decisions in custody. The information in this toolkit is not legal advice. Before taking any legal action you should speak to a lawyer who can provide advice specific to your situation, or write to, or call, PAS.

This toolkit has been expressly written with the needs of transgender prisoners in mind. In March 2019 the Bent Bars Project conducted a survey of over 130 LGBT+ prisoners and asked what areas of prison life they would like to be covered in this guide. By working together with Bent Bars, we have tried to cover as many areas as possible that directly relate to your needs in custody. If you are aware of an area that we have not covered please feel free to write to, or call, us and we will try and assist you.

We have also created a separate toolkit for lesbian, bisexual and gay prisoners. If you identify as both trans and gay, lesbian or bisexual, you may wish to consult the LGB toolkit in addition to this one. Because the law and policy relating to transgender prisoners is quite specific, we could not include all LGBT+ information in one guide. This guidance is specific to England and Wales. The policy on trans prisoners is different in Scotland. There is no formal policy in Northern Ireland, where trans prisoners are treated on a case-by-case basis.

This guide will explain:

- What the main prison policy in England and Wales says about how to 'care and manage' transgender prisoners and how it affects you
- What your rights are as a transgender prisoner
- What the prison's responsibilities are
- What a transgender case board is (including 'local boards' and 'complex boards')
- How to gain access to gender affirming healthcare and gender affirming clothing and products
- How to make complaints
- How to access legal advice

The production of this Self Help Toolkit for transgender prisoners was made possible thanks to the generous support of The Tudor Trust and The Paul Cottingham Trust.

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TRANS TOOLKIT

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PART ONE: PRISON SERVICE FRAMEWORK THE CARE AND MANAGEMENT OF INDIVIDUALS WHO ARE TRANSGENDER

On 31 October 2019, the Ministry of Justice published a new Prison Framework Policy giving guidance as to how transgender prisoners should be managed and cared for. The new policy entitled 'The Care and Management of Individuals who are Transgender' was published in response to a high-profile case, where the previous policy had not been properly implemented.

As a result, the new policy focuses much more on the potential risks that transgender prisoners may pose to themselves and to others in prison as well as the risks they may face from others. Because of this focus on 'risk', the new policy can appear to be quite restrictive and intrusive when it is first read. The intention of this toolkit is to help you better understand how the policy operates.

The policy is also supported by 'Operational Guidance' published by the Ministry of Justice in January 2020. The Operational Guidance is intended for use for all prison staff and should be read together with the main policy. In this toolkit we will explain both the main policy and the Operational Guidance and what you need to know to assert your rights. Copies of both of these documents will be available in your prison library. For family members or friends with access to the internet they can assess the Prison Framework Policy and the Operational Guidance online.

What is the purpose of the new policy?

The focus of the new prison service policy is to provide additional guidance on how to 'manage' transgender prisoners and other prisoners who express their gender identity in different ways. The policy states that its primary focus is on individuals who express a consistent desire to live permanently in the gender in which they identify, which is different to the biological sex assigned to them at birth (i.e. being transgender).

This includes:

- Those who wish to transition permanently to a new gender
- Those who wish to consistently live in a new gender but do not have a Gender Recognition Certificate (GRC; see pages 11 and 15)
- Those who have gained legal recognition of their gender and possess a Gender Recognition Certificate
- Those who are intersex
- Those who do not identify with any gender (non-binary)
- Those who are gender fluid
- Those who cross-dress

KEY TERMS: LOCAL TRANSGENDER AND COMPLEX CASE BOARDS

What is a Case Board?

There are two types of case boards:

- A Local Transgender Case Board
- A Complex Case Board

What is a Local Transgender Case Board?

A Local Transgender Case Board consists of a group of professionals, based at the prison you are currently at, or are likely to be sent to. They will decide issues in relation to your management and care that are to do with your day to day living whilst in prison.

A Local Transgender Case Board must be:

- chaired by a Senior Prison Manager; and
- its decisions must be signed off by the Governor of the prison

A Local Transgender Case Board may be attended by:

- a Safer Custody Manager
- your Offender Supervisor/Wing Officer
- a pre-sentence report writer (if you are not yet sentenced)
- prison healthcare
- a prison psychologist
- an equality officer
- a GP
- a gender identity clinic specialist
- a Prison Escort Custody Service Manager
- either an official from the Ministry of Justice's Equality Team or an official from the Ministry of Justice's Women's Team

A Local Transgender Case Board may be held before you are sentenced and sent to custody. (See section Before Custody on page 11).

When you arrive into custody a Local Transgender Case Board must be held within 14 days. After an initial Local Case Board, the panel will likely set a further date to review your case. Your case can also be reviewed if there is a significant change of your circumstances, or a change to the risks posed to you in prison. (See section Entering Custody on pages 13-14 below).

Your case will also be reviewed if you are about to be released from prison in order to make sure you are sent to the correct approved premises (i.e. a hostel) and to put in place any plans should you be returned to custody at any point. (See section Release to Approved Premises on page 19 below).

At a Local Case Board, you will be asked about your views on two issues.

First, they will look at issues in relation to your care. This might include for example how you wish to express your gender identity, what support you require on a day to day basis and practical arrangements for carrying out searches and showering etc.

Second, they will look at issues pertaining to how you are managed in the prison. The board will look at any risks you might face as a transgender prisoner, and they will also look at any potential risk to other prisoners. It is important to note that a Local Case Board has no power to allocate you to a different prison estate. Only Complex Case Boards have the power to move you from the male/female prison estate.

You are entitled to attend a Local Case Board to put your views across. The Operational Guidance states that you may attend a Local Case Board with a 'McKenzie friend'. A McKenzie friend is someone who can support you throughout the process and can help to advise you in relation to procedure. Normally they are not allowed to speak for you, but can assist you in coming to decisions and can provide you with advice.

A McKenzie friend may be a member of the public, another prisoner or a solicitor acting in a personal capacity as a friend (i.e. without claiming legal aid). If you would like someone present at your hearing to act as a McKenzie friend you have to make a request for them to attend your review. Once a request is made the panel chair will consider it and provide reasons for either allowing or refusing the request.

You are also entitled to see the papers and evidence that will be considered at the Local Case Board. This is known as 'advance disclosure' of information. You are entitled to access this information at least four days before your Case Board is held. A sample of the advance

disclosure form is provided in Annex C of the policy. Advance disclosure should contain:

- The date of the meeting
- Where the meeting will take place
- Who is chairing the meeting
- Which prison official will attend the meeting
- Information regarding your offending history
- Information regarding your risks of serious harm
- Any identified areas of risk that are relevant for the Case Board
- Any relevant healthcare information
- Whether you have any mental health issues
- Whether you have a personality disorder diagnosis
- Whether you have any learning difficulties
- Any other equalities considerations, such as race, disability, religion, sexual orientation

What happens at the Board?

At a Local Transgender Case Board, the panel will meet with you and your McKenzie friend if you have requested one. They will consider the information and evidence that has been provided to you in the advance disclosure. They will ask you a number of questions about how you wish to be treated and managed within the prison.

At this point you can raise any concerns you have with the Board such as:

- Your views on whether you wish to be allocated to a male or female prison
- You may wish to provide some evidence in relation to how you have been living in your acquired gender. (For more information on the evidence you can provide, please see pages 12 and 13)
- How you wish to be supported and enabled to express your gender identity
- How you wish to be referred to, including using your preferred pronouns
- What support from family members, friends or external organisations you are receiving
- Your access to gender affirming items (for example, make up, wigs, male/female clothing)
- How the prison will address your well-being in relation to searching, showering arrangements and carrying out laundry; the prison should seek your views about whether you want to enter into a voluntary agreement with them (known as a compact) as to how you will have access to these services
- Whether you are currently experiencing transphobic abuse / bullying from either staff or prisoners
- Your access to gender identity treatment such as healthcare, hormones and gender recognition surgery
- Any other concerns you have

Once you have expressed your views, the Board will make decisions in relation to how you are managed within prison. As previously stated, a Local Transgender Case Board does not have the power to allocate you to a different male / female prison. Only a complex Case Board has that power.

When making decisions in relation to how you are managed in prison, the Local Case Board will carry out a risk assessment. The purpose of the risk assessment is to carry out a balancing exercise between the protection of transgender prisoners in custody and the welfare of other prisoners in custody around them.

In assessing risk, the Local Case Board will look at the following potential hazards, both to you as a transgender individual, and to others.

Potential risks to you from others, or personal vulnerabilities of the individual, related to:

- Mental health and personality disorder
- History of self-harm
- Anatomy, including risk of sexual or violent assault
- Testimony from the individual about a sense of vulnerability, e.g. in a male environment, in a particular prison, or from a particular prisoner or group of other prisoners
- Risk of suicide
- Medication, including the absence of medication and the impact of known side effects
- History of being attacked, bullied or victimised
- Intelligence, including evidence of coercion, manipulation, or threats towards the individual
- Family circumstances / relationships
- Age
- Physical health
- Learning disabilities or difficulties

Potential risks presented by you to others in custody, or in an Approved Premises (AP), related to:

- Offending history, including index offence, past convictions and intelligence of potential criminal activity - e.g. credible accusations
- Anatomy, including considerations of physical strength and genitalia
- Sexual behaviours and relationships within custodial / residential settings
- Use of medication relating to gender reassignment; and use of medication generally
- Past behaviour in custody, the community, in the care of the police, or in the care of prisoner escort services
- Evidence of threats towards other prisoners

We suggest that you look at these factors carefully, so you can advocate / speak for yourself at the Local Case Board. We know these situations can be daunting and intimidating, especially when people have decision making power over you. However, it is important to try and be fully engaged in the process. Be sure to read all information in advance and prepare what you want to say. As with all situations in the criminal justice system, how you present yourself and how you communicate can influence decisions.

Here are a few points that you can make to your board:

- Being transgender should not be seen as a risk by itself. The Operational Guidance states this explicitly.
- Risks should be balanced, and the board should consider both the risks that other prisoners pose to you and any potential risks that you may be deemed to pose to others.
- While anatomy (e.g. genitals and physical strength) is included on the list of risk factors, this is not necessarily a determining factor in all cases. The Operational Guidance states that not every case will require discussions concerning genitals and will depend on the circumstances of the individual. The Operational Guidance also states that an individual who retains the genitals of the sex assigned to them at birth would not necessarily be prevented from being located in the prison that matches their acquired gender. For example, a trans woman (with or without a GRC) who has not had lower / genital surgery could be housed in a women's prison. If anatomy is discussed by the panel, it must be done so sensitively and respectfully and with a justified reason.
- Any experience you may have of bullying, discrimination or harassment.
- Your view as to where you wish to be located in the prison estate should also be considered.
- No two cases are alike and each case should be assessed on a case by case basis.

What happens after the Local Case Board makes their decision?

Once a Local Case Board has decided how you should be managed and whether they will refer your case to a Complex Case Board, they should give you the reasons for their decisions. This should be provided by using a Local Case Board Record Form which can be found at Annex C5 of the Operational Guidance. The form should detail what happened at the meeting

and the decision they have come to. The form should also record when your next review date is.

If you have not received the reasons for the Local Case Board's decision, you should follow the complaints process as set out below. Should you disagree with any of the decisions made at a Local Case Board, you can make a complaint. To do this follow the 'How to Make a Complaint' section in this guide below. You may also seek legal advice if you want to take further action, as there is no right to appeal a decision of a Local Case Board. More guidance on this is provided below.

After the initial Local Case Board decision you can have a further review if:

- The Local Case Board has set a further review date
- Your circumstances change
- You move to a new prison
- You are about to be released

When the Local Transgender Case Board hands over to the Complex Case Board

A Local Transgender Case Board has to refer cases to the Complex Case Board where:

- The Local Board feels that consideration should be given to moving a transgender prisoner from the male estate to the female estate, or vice versa
- A transgender prisoner presents a risk to themselves or others which requires special management
- A transgender prisoner is at risk from other people in custody
- A transgender prisoner with a GRC is deemed to be unmanageable within the prison estate that matches their legal gender
- A person gains legal recognition (i.e. obtaining a GRC) during their prison sentence
- An individual held in the adult prison estate is under 21 years of age
- A transgender prisoner moves from a youth prison to an adult prison

What is a Complex Case Board?

A Complex Case Board is a panel of professionals that deals with complex cases and issues that cannot be managed by a Local Case Board. They are a specialist review board that sits within the Ministry of Justice. A Complex Case Board has the power to decide whether a transgender prisoner should be allocated to a male or female prison. This is particularly relevant in cases where a prisoner is seeking to be moved to a prison that does not match their legal gender. The task of the Complex Case Board is to determine what risks a prisoner may face and what risk they may pose to others, and whether those risks are best managed in either the male or female prison estate. A Complex Case Board can also decide whether further risk assessments are required.

All Complex Case Boards are chaired by a Prison Group Director. Other members of a Complex Case Board must include:

- A psychology lead
- The Head of Women's Team in prison
- HMPPS Equalities Team
- Representatives from the Local Case Board

Disclosure

Prior to a Complex Case Board taking place, you should receive the papers and evidence that will be considered by the panel (known as 'advance disclosure', referred to on pages 7 & 8). You should receive this four days before the Board takes place so you are aware of the information that will be discussed. As the meeting takes place within the Ministry of Justice

you will not be able to attend in person. At the very least you should be able to make written representations (i.e. send your views or wishes) to the Complex Case Board. As a prisoner you have a right to make representations in relation to important decisions taken by the prison. If you are not allowed to make representations, this may be unlawful and could be challenged.

What happens once the Complex Case Board makes their decision?

Once the Complex Board makes any decisions, you should be notified in writing. If you disagree with the outcome, as above, you may wish to make a complaint or seek legal advice as there is no right of appeal against their decision.

BEFORE CUSTODY

Pre-Sentence Local Case Board

If you have not yet been sentenced but are likely to receive a prison sentence, then the probation service should request an adjournment so they can prepare what is known as a pre-sentence report.

A pre-sentence report is a document that sets out the broader circumstances of your life including but not limited to: your current lifestyle, how you self-identify regarding your gender, your level of education, whether you are employed, whether you have any previous convictions, whether you have any mental health issues and what courses might assist you in prison.

If it is likely that you will receive a prison sentence then a 'Local Transgender Case Board' should occur. This means that prison officials should meet before you are sent to a prison so they can make a plan for when you arrive there. A 'Complex Case Board' may also happen before you go into custody. We are aware in practice that these steps rarely happen at this stage. Details regarding Local and Complex Case Boards can be found above.

How am I allocated to a male or female prison?

The main principle in deciding whether you are allocated (i.e. placed) to either the male or female prison estate is your legal gender. Your legal gender is what is recorded on your birth certificate or your Gender Recognition Certificate.

What is a Gender Recognition Certificate (GRC)?

A GRC is a legal document that has been issued under the Gender Recognition Act 2004. It states that you have satisfied the criteria for legal recognition of your acquired gender and you must now be treated as the legal gender provided in the certificate.

We have provided below the steps that should take place before you enter custody and what happens thereafter. However we are aware that not all of these steps take place in practice. We wish to be clear that in practice, unless determined otherwise by a Complex Case Board, transgender prisoners will be located according to their legal gender.

What happens if I am transgender and have a GRC when I come into prison?

Some transgender people will have a GRC prior to being sent to prison. However, many transgender people will not have a GRC.

The prison policy states that if you have a GRC you should be placed in the part of the prison estate that corresponds with your legal identity. For example, if you are a transgender woman and you have a GRC then you must be placed in a female prison. If you are a transgender man with a GRC then you must be placed in a male prison. However, if you are a transgender man, you can also request to not be placed in a male prison if you wish.

Section 9 of the Gender Recognition Act 2004 states that when a full GRC is issued to a person that person's legally recognised gender becomes, for all purposes, their acquired gender. This means that if you are a transgender woman with a GRC you should be treated in the same way as a non-trans woman. However, following an individual assessment, if they are considered to pose a high risk of harm to cis women, or due to poor behaviour, transgender women prisoners with a GRC can be held in separate accommodation in the women's estate, or in a male prison. This is similar to cis women, who may be held in the male estate if they are assessed as being so dangerous that they cannot be safely managed in the women's estate.

What happens if I am transgender but I do not have a GRC when I come to prison?

If you are transgender but do not yet have a GRC before coming to prison, your case will be dealt with in the following ways.

First, you will be allocated to either a male or female prison based on your legal gender. If your legal gender is unknown, the decision on whether you go to the male or female prison estate will be based on what is referred to in the policy as the 'best-available evidence' about your gender. This means that the prison will decide whether there is sufficient evidence to 'confirm' that you have been living in the gender that you identify with.

Annex B of the policy lists factors that prison officials have to consider when deciding if your gender identity has been confirmed.

The lists are organised into four categories based on how 'strong' the evidence is. The categories are: full confirmation, strong confirmation, limited confirmation and counter confirmation.

Evidence of full confirmation includes:

- Having a birth certificate confirming that your gender has been reassigned
- Having a GRC (note: prison officials are not allowed to ask to see your GRC, but you can voluntarily offer it if you give written consent)
- Evidence of an application for a GRC (again this cannot be asked for by the prison but you can provide it voluntarily or ask the prison to check with the Gender Recognition Panel if you have made an application)

Evidence of strong confirmation includes:

- Advice from your GP
- Advice from a Gender Identity Clinic
- A diagnosis of Gender Dysphoria (this is a recognised psychiatric condition and is where a person experiences discomfort or distress because there is a mismatch between their biological or legal sex, and how they feel about their gender identity)
- Medication or hormone treatment
- A psychological assessment which confirms discomfort with birth gender
- You have evidence / examples that show you are living your life / presenting in your acquired gender (which is different from birth), such as:
 - A change of name and appearance
 - Use of prosthetics
 - Consistent use of gendered spaces
 - Day to day living (i.e. names on your identification cards have been changed i.e. passport, driving licence, bank cards etc)
 - You have official forms completed in your acquired gender

Evidence of limited confirmation includes:

- Limited evidence that you are living in your new gender (i.e. insufficient evidence that you have changed your appearance, name, etc)

- Limited clarity or stability of an intention to permanently change your gender
- The policy recognises that if you are a young person or have lived abroad or are at an earlier stage of transition, this may prevent you from having actual life evidence;
- Evidence will be accepted from teachers and professionals working with you
- If you are non-binary or gender fluid, you will be allocated to a prison that correlates to your legal gender

Counter confirmation includes:

- If it appears that your reason for changing gender is linked to your offence or sentence
- If it appears that your decision to transition is linked to gaining access to future victims
- Evidence of an insincere motivation to transition or a motivation to undermine the system, particularly if linked to a diagnosis of personality disorder and / or narcissistic traits

We understand that it can be very difficult to obtain evidence to confirm your gender identity. If your case is adjourned for a pre-sentence report, it is important that you bring as much evidence as you can to the meeting with the probation officer, so they can have a full and accurate picture of your gender identity.

For some people it may not be possible to obtain all the evidence you would like at this stage. Do not worry you can also provide evidence at a Local Transgender Case Board if you are sent into custody. Your case may also be referred to a Complex Case Board, if it is proposed that you should be allocated to a prison which does not match your legal gender.

ENTERING CUSTODY

Being remanded in prison

If you are remanded into custody (i.e. denied bail before your trial) you will be sent to a prison that matches your legally recognised gender. If your legal gender is unknown, the decision will be based on the 'best available evidence' about your gender.

If this is the case, we know it may be very difficult for you to obtain and provide the prison with evidence of your gender identity and how you have been living your life. If you cannot provide evidence immediately, there will be other opportunities to provide it, but it is best to try to provide it as soon as you can. If you are immediately sent to custody you may want to ask a friend, a relative or partner to send you copies of documents. You should avoid sending in original documents to prison as these could be lost in the post, or lost by the prison service.

Once you arrive into custody, a Local Transgender Case Board must happen within 14 days. This is a mandatory step the prison has to take. Your case may then be referred to a Complex Case Board, particularly if the prison is considering transferring you from one part of the prison estate to another (e.g. from the male estate to the female estate or vice versa).

Being sentenced

If you have been sentenced then you should have had a pre-sentence report and a Local Transgender Case Board should have met. In some cases, the Local Transgender Case Board may have also referred your case to a Complex Case Board (as explained above).

You will be initially allocated to either a male or female prison based on your legal gender, unless your legal gender is unknown, in which case the 'best available evidence' principles as set out above will apply.

The policy states that all individuals will be housed according to their legal gender, unless a Complex Case Board has decided otherwise. For example, if you are a transgender woman without a GRC, you will be housed in a men's prison unless a Complex Case Board decides that you should be allocated in a women's prison.

At the time of sentencing, the regional prison office must check to see whether a Complex Case Board has taken place. The Prisons Escort Custodial Service (i.e. those that take you to prison) will alert the Governor of the Prison and the Prison Group Director's office, in case your gender identity cannot be determined and/or there is any risk of harm to you or to other individuals in custody.

If your legal gender cannot be determined, the policy allows you to be placed in a supported environment within a prison, separate from the main prison population until a Local Transgender Case Board has occurred. This does not mean you should be placed in isolation, such as segregation or in healthcare. We are aware that this process is rarely followed.

IN PRISON

Self-declaration

The policy says that those who are in prison can self-declare their gender identity and staff are expected to respect this identity and use the correct pronouns. The process of deciding which estate you should be held in is entirely separate from self-declaration.

For example:

- If you are a transgender woman, you may wish to be called "she"
- If you are a transgender man you may wish to be called "he"
- If you identify as non-binary, you may wish to be called "them"
- If you are gender fluid, you may use more than one pronoun, depending on the situation

Ultimately it is up to you as to which pronouns you wish staff and other prisoners to use. It is important to tell staff how you want to be referred to so that your wishes are respected.

How am I allocated to a male or female prison if I want to transition within prison?

If you begin transitioning in prison or you would like to, you should ask for your case to be considered by a Local Transgender Case Board. Depending on the nature of your transition, your case may be referred to the Complex Case Board. (These are discussed in detail above).

Access to clothing and items to express your gender identity

The Operational Guidance is very clear about the right to access clothing and other items you need in order to express your gender identity. It states:

"transgender individuals must be allowed to wear clothing consistent with their identified gender. This may be subject to risk, operational and security assessments. Items to support gender identity should be obtained from an equivalent opposite-gender prison."

The Operational Guidance also recognises the importance of prosthetics and states:

"transgender individuals sometimes use special garments or prosthetics to help them present in a more feminine/masculine appearance. They can be crucial to their appearance and self-confidence in effectively living and being accepted in the gender they identify with. Establishments are encouraged to provide such items, but only after sufficient risk assessments have been made on the items and the Governor is satisfied that it does not compromise security or safety..."

If there are any difficulties with an individual retaining special garments or prosthetic items in their possession, advice should be sought from a gender identity clinic or mental health team before any decision is made. All decisions are to be recorded."

Practically this means that you should be able to have access to gender affirming clothing and items from the prison, subject to a risk assessment and security issues. One way of obtaining the items is to ask your personal officer to provide you with a catalogue of items that would be available in either a male/female prison. You should then be able to order these items on a canteen sheet. If you have difficulties in ordering products, you should follow the complaints process as described below.

Segregation issues

For a detailed account of how segregation works and what the rules are behind it please see Prisoners' Advice Service's segregation guide.

Specifically, in relation to transgender prisoners the policy framework states segregation should not be used as a method of managing a transgender person's risk to themselves or others. Where a decision is made to place a transgender prisoner in segregation a referral must be made to the Complex Case Board within seven days of the decision.

HOW TO APPLY FOR A GRC IN PRISON

We understand that some prisoners may want to apply for a Gender Recognition Certificate whilst in custody. This is a complicated process. If you are thinking about applying for a GRC in custody you may want to talk to a friend, a family member, a listener or an equalities representative first.

We have provided some brief guidance below as to who you can contact to obtain advice. The process involves filling in a number of forms. If you would like to obtain the necessary forms and guidance you should contact:

Gender Recognition Panel, PO Box 9300, Leicester LE1 8DJ

E-mail: GRPenquiries@justice.gov.uk
Telephone: 0300 1234 503

The process

An application to change your legal gender is made to the Gender Recognition Panel (address above). The Panel is a branch of HM Courts & Tribunal Service. It is formed from an administrative team, judges, legal members and medical members.

The application for a Gender Recognition Certificate is a legal process. To grant a Certificate the Panel has to be satisfied that an applicant complies with what is required under the Gender Recognition Act.

The following requirements are needed for an application to change your gender:

- You are 18 years or older
- You have a diagnosis of gender dysphoria
- You have lived in your new gender for a period of two years before you make your application
- You intend to continue to live in your acquired gender until you die
- You have a report from a registered gender dysphoria specialist or a registered psychologist to support your application to live in your new legal gender

For more information on the detailed application process you can contact:

The Gender Identity Research & Education Society, Molverley, The Warren Ashted Surrey KT21 2SP

Telephone: 01372 801 554

The legal implications of having a Gender Recognition Certificate under the Gender Recognition Act 2004

Once you obtain a Gender Recognition Certificate, there are certain legal implications to having one. As mentioned above, section 9 of the Gender Recognition Act 2004 (GRA) requires that a person who has obtained a Gender Recognition Certificate must be treated in accordance with their acquired gender for all purposes.

Section 22 of the GRA 2004 provides that it is a criminal offence for a person in an official capacity (i.e. a prisoner officer) who has acquired protected information (i.e. that a prisoner has made an application for a Gender Recognition Certificate or that an application for a GRC has been granted) to disclose the information to any other person (i.e. to talk about it) unless one of the exceptions in section 22 applies.

Under section 22, exceptions to the offence of disclosing information that may apply to the prison context are:

s.22(4)(b) – the person has agreed to the disclosure (you have agreed for the prison to share information relating to your GRC; certificate or application)

s.22(4)(d) – the disclosure is in accordance with an order of a court or tribunal (the Courts have ordered that your information can be shared)

s.22(4)(e) - the disclosure is for the purpose of instituting, or otherwise for the purposes of, proceedings before a court or tribunal (the information can be shared for the purposes of bringing court proceedings)

s.22(4)(f) – the disclosure is for the purposes of preventing or investigating crime

s.22(4)(i) – the disclosure is in accordance with an Order under s.22(5) – currently this is the Gender Recognition (Disclosure of Information) (England, Wales and Northern Ireland) (No. 2) Order 2005 – which allows disclosure for, amongst others, purposes of obtaining legal advice, religious purposes, medical purposes

s.22(4)(j) – the disclosure is in accordance with any provision of, or made by virtue of, an enactment other than this section (there may be further changes to the Act which allow the sharing of your information to take place)

HEALTHCARE

The policy framework on the ‘Care and Management of Individuals who are Transgender’ states that, if you are being treated for gender dysphoria before you come into prison, this treatment should continue until your gender specialist has been consulted on an appropriate way to manage your treatment in prison. This means that, if you are taking hormones as part of your prescribed health care, you should continue to have access to hormones.

The Operational Guidance also recognises that many transgender people self-medicate (i.e. using hormones that are not prescribed by a doctor) and acknowledges that stopping hormones (even if non-prescribed) can have serious adverse effects. If you are using non-prescribed hormones, you should raise it with the Local Transgender Case Board and seek advice from prison health care. As a general principle, you are entitled to receive the same quality of care in prison as you would expect to receive outside of prison from the NHS. This includes counselling and access to hormone treatment.

You can request a referral from the GP in prison to attend a Specialist Gender Dysphoria clinic. These are sometimes known as Gender Identity Clinics (GICs). There is no longer a need for you to see a psychiatrist in order to be referred to a clinic.

Applying for Gender Reassignment Surgery

You can also make an application for gender reassignment surgery. This will result in a specialist consultant providing advice about whether gender affirmation surgery is appropriate in your case. We are aware that it is extremely rare to obtain gender affirmation surgery whilst in prison. To date no transgender female prisoners have been provided with ‘bottom’ surgery (i.e. reconstructive surgery on their genitals), whilst in prison.

SEARCHES IN PRISON

It is important to note that prison officers cannot carry out a search just for the purpose of finding out your gender. If this happens to you, it is highly likely to be a breach of your human rights. (For more information on this please see page 22).

Both the Prison Service Framework on ‘The Care and Management of Transgender Individuals’ and Annex H of the Prison Service Instruction (PSI) 07/2016 entitled ‘Searching of the person’ (which should be available to you in the prison library) provide guidance as to how prison officers should search transgender prisoners. For the purposes of comparison, we will explain what should be expected for each type of search and how this would relate first to non-transgender prisoners and then to transgender prisoners.

The prison has powers to use two different types of searches. These are known as:

- Full searches
- Rub down searches

More intimate searches may only be conducted by a healthcare professional.

Full searches

After intimate searches, which prison officers do not have authority to conduct (see below), a full search is the most invasive kind of search. For non-transgender men, it involves males removing the top half of their clothing, putting it back on and then removing the bottom half of their clothing and then putting that back on. At no time should a prisoner be fully naked. Non-transgender male prisoners can be searched by either male or female officers.

During a more thorough search, non-transgender men can be asked to squat to enable officers to look for further items. Officers are only allowed to observe. Sometimes they can use mirrors. If a non-transgender male prisoner refuses to bend or squat they may be charged with a prison disciplinary offence and reasonable force can be used to make them bend or squat. A record must be kept where these measures are used.

If an item is found, prison officers should ask the prisoner to remove it. For example if it is plugged inside the anus, it cannot be removed without consent as this would mean it was an intimate search. Where the item is clearly and fully visible, for example taped to the skin, and removal can be taken without risk of injury, it may be removed without consent and by force if necessary.

If an item is partially visible, for example, protruding from the anus and it is strongly believed that the removal can be undertaken without risk of injury, it may be removed without consent if necessary but careful consideration must be given before it is removed.

Non-transgender men may have their penises visually inspected by prison officers, but only if there are grounds to suspect (from CCTV or intelligence during a full search) that a male prisoner has hidden an item in their genital area. Where an item can be more easily removed, but also involves a degree of intrusion (for example drugs in the foreskin), officers may use force to remove the item if consent is not given. Officers must, however, consider that there would be a serious risk to prison security if the prisoner were to retain possession.

Where the suspect item does not pose an immediate or serious danger to prison security (e.g. a small quantity of drugs), or forced removal is not justified, then prison disciplinary proceedings may be brought.

For non-transgender women, a full search involves the removal of all a woman's clothing apart from her underwear. A more thorough search involves removing the underwear as well – first the top and then the bottom. Again, at no time should a prisoner be fully naked. The more invasive search can only happen if there is intelligence that a non-transgender woman has concealed an item in her underwear or if illicit items have been discovered during the initial search. Non-transgender women must never be asked to squat and can only be searched by female officers.

Full searches of transgender prisoners

If a prisoner has a GRC they must be treated in their acquired gender in every respect. This means that they must be treated in accordance with the regular guidance for searching non-transgender men and non-transgender women above.

Under the policy, prisoners with a GRC should only be searched by officers of the same legal gender. For example, a transgender woman with a GRC should only be fully searched by female officers. She should never be searched by male officers.

As for non-transgender men, transgender men can be searched by either male or female officers. For transgender female prisoners, if you have undergone gender confirmation treatment, you cannot be asked to squat, **even if you do not hold a GRC.**

The PSI guidance says that before a search of a transgender prisoner starts, a sensitive discussion should be had with the prisoner to allow them to determine their preferences around how the search is conducted. This may be achieved through a 'voluntary compact' if a prisoner consents to it. A 'voluntary compact' is a written agreement that clearly sets out the arrangements for searching a transgender prisoner including the gender of searching staff.

The compact must be signed voluntarily (i.e. of your own free will and not be coerced) to be legal. **Searching arrangements are a key and important area to discuss at your Local Transgender Case Board.**

The PSI guidance does distinguish between those transgender prisoners with a GRC and those without. If you do not have a GRC, this does not mean that in every case you will be searched by prison staff of the (legally) opposite sex, although it is highly likely (i.e. a transgender woman who is legally male would be searched by a male officer according to the procedures above; a transgender man who is legally female would be searched by a female officer). This, however, may depend on how far you are in your transition.

The policy recognises that the wishes of transgender prisoners to not be searched by members of the legally opposite sex, may also be the same as those prison officers who conduct the search.

If you are in the process of transitioning and your circumstances change, the agreed arrangements for searching you can also be changed. This can happen via a Local Transgender Case Board or via a request to change your 'voluntary compact' around searching.

A decision to carry out a full search must be documented. A sample form of what needs to be recorded is included at p73 of PSI 07/2016. If you think that your search was unlawful, it will be important to obtain a copy of the full search record to challenge any of the underlying reasons.

Rub down searches

Rub down searches are the most commonly used type of searches. The rub down process should not involve contact with breasts or genital areas. Male prison staff are not allowed to

rub down female prisoners. However female staff can perform rub down searches on both male and female prisoners.

If you have a GRC and are a transgender woman, male officers must not carry out rub down searches on you. Female prison officers can however search both male-to-female and female-to-male transgender prisoners.

The Operational Guidance recognises that transgender prisoners may be wearing prosthetics, such as breasts, penises, corsets or binders. The Guidance states that when an individual is required to remove the prosthetics, transgender prisoners should be asked to remove the items themselves. The items should then be searched and then returned to the individual, giving them privacy to adjust and replaced the removed items.

Intimate searches

Prison officers do not have any legal power to conduct an intimate search. An intimate search is any search that relates to your mouth, anus or vagina. An intimate search can only be carried out by a healthcare professional, with the prisoner's consent (which means you have to agree to it).

A healthcare professional will not carry out an intimate examination without a clear clinical need for it.

RELEASE TO APPROVED PREMISES (I.E. TO A HOSTEL)

If you are going to be released on licence to a hostel, then a Local Transgender Case Board will meet and decide how best to manage your needs. A Local Transgender Case Board can meet both before and after you have been released. Only Complex Case Boards have the power to allocate prisoners without a GRC to a hostel of their acquired gender.

BEING RECALLED TO PRISON

If you are recalled to custody (i.e. it is alleged that you have breached your licence conditions and you are sent back to prison) the same process described above will apply. You will be initially allocated to a male or female prison according to your legally recognised gender (or the best available evidence).

If your case has already been reviewed by a Complex Case Board and there has been no significant change of circumstances, the chair of the Complex Case Board and the Governor of the prison you are returned to can approve any decision to allocate you to a prison that matches your acquired gender.

For example, if you are transgender women who does not have a GRC, but a Complex Case Board previously decided to allocate you to a women's prison, then the prison Governor and chair of the Complex Case board can decide to allocate you to a women's prison. In any event a Local Transgender Case Board will be held within 14 days of you returning to custody.

PART TWO: THE LEGAL OVERVIEW: YOUR RIGHTS AS A TRANSGENDER PRISONER AND THE PRISON'S DUTIES

The prison service, like many other public bodies, has certain obligations towards you. This includes the duty not to discriminate against you on the grounds that you are transgender. Discrimination occurs in prison when you are treated in a worse, or less favourable, way because you are transgender. The prison also has an obligation to respect your human rights.

The main laws that offer protection as a transgender prisoner are the Equality Act 2010 and the Human Rights Act 1998.

THE EQUALITY ACT 2010

The Equality Act 2010 is the law that governs discrimination in England & Wales. It sets out the different forms of discrimination that are prohibited in law.

The Act set out a number of what are known as 'protected characteristics'. These are:

- Age
- Sex
- Gender reassignment
- Disability
- Marriage and civil partnership
- Pregnancy
- Race
- Religion or belief
- Sexual orientation

Gender reassignment

Under the Equality Act 2010, a person has the protected characteristic of gender reassignment if they are proposing to undergo, are undergoing, or have undergone a process (or a part of a process, see below) for the purpose of reassigning that person's sex by changing their physical appearance.

This means that if you are proposing to change the way you physically look, from the gender you were assigned at birth, into a different (e.g. the 'opposite') gender, you will have the protected characteristic of gender reassignment. In other words, you do not have to have completed gender transition; you could be just starting the process or wanting to start the process of transition. The Equality Act 2010 specifically uses the word 'transsexual' when describing gender reassignment; however some people consider that term is now outdated and it is interchangeable with transgender. You do not need a GRC to be protected by the Act.

What is meant by 'undergoing a process' is set out more clearly in the Equality and Human Rights Commission's Statutory Code of Practice for Services, Public Functions and Associations (2011). The Code of Practice states that in order to be protected under the Equality Act 2010 you do not have to have undergone a medical transition. The Code of Practice says so long as you have begun the personal process of moving away from your assigned gender at birth, by taking relevant steps, for example changing the way you dress, you will be protected by the Act.

The Act also gives additional protection to people with a diagnosis of 'gender-dysphoria' and 'gender identity disorder'. If you have been diagnosed with either of these and they have a long-term adverse effect on your ability to carry out normal day-to-day activities, you may also be protected under the disability discrimination provisions of the Equality Act 2010.

It is important to note, however, that you do not need a diagnosis of either gender dysphoria or gender identity disorder in order to be protected by the gender reassignment legal protections

of the Equality Act 2010.

Under the Equality Act 2010, you must not be treated worse or less favourably than someone else because you are proposing to undergo, are undergoing, or have undergone gender reassignment. For example, prison officers cannot treat you less favourably than other prisoners because you identify as transgender. This may amount to discrimination. For example, being misgendered by officers would amount to direct discrimination.

The main different types of discrimination outlawed by the Act are:

- Direct discrimination
- Indirect discrimination
- Harassment
- Victimisation

Direct discrimination

This is when you are treated less favourably (i.e. worse) than someone with a similar situation. For example, if a prison officer treats you less favourably because you identify as transgender than they would treat a non-trans prisoner, this would amount to direct discrimination. This type of discrimination cannot be justified (apart from on the grounds of age) i.e. a prison officer cannot say he or she had a good reason for treating you less favourably because you are transgender.

Indirect discrimination

This is when a particular organisation has a rule or policy that applies to everyone, but it puts people with a protected characteristic at a disadvantage. This form of discrimination can be justified if there is a good reason for the policy or rule. However, an organisation must be able to back up the good reason for the policy with evidence.

An example of indirect discrimination would be if a male prison had a policy that refused to provide beauty products. As transgender women may require beauty products to look more feminine, this policy amounts to indirect discrimination as it would put transgender women prisoners at that prison at a distinct disadvantage.

Harassment

This is when a person receives unwanted conduct from others relating to a protected characteristic.

Unwanted conduct includes a wide range of behaviour, both spoken and written. It includes abusive words, inappropriate jokes and physical gestures.

Harassment is unlawful if it is connected to your gender reassignment and the effect of the harassment is to violate your dignity or to create an intimidating, hostile, degrading, humiliating, or offensive environment for you.

Victimisation

This is when you are treated badly by an organisation because you have made a complaint about the discrimination you have received. This can also apply to someone supporting a person who is complaining about the treatment they received.

An example of victimisation would be if a prisoner submitted a COMP1 (see page 29) about a prison officer's alleged misconduct, such as using transphobic language, and then officers treated that prisoner less favourably because they had made the complaint. It would also be victimisation if the officers tried to make that prisoner withdraw the complaint.

THE HUMAN RIGHTS ACT 1998

The Human Rights Act 1998, introduced the European Convention on Human Rights directly into UK law. The Human Rights Act 1998 requires public authorities (i.e. prisons and probation) to act in ways that do not violate the person's Convention Rights. This means that the prison has to respect your rights when making decisions about your care or treatment. If they fail to do so, in some circumstances they could be acting against the law.

The following is a list of the rights in the Human Rights Act that may pertain to transgender prisoners:

- Article 2 of the Convention protects the right to life. The prison has a duty to protect your life. This may include a duty to protect you from a risk of harm and a duty to investigate deaths and near deaths in prison.
- Article 3 of the Convention provides protection from inhuman and degrading treatment and torture. The prison authorities must not treat you in a manner which is inhuman, degrading or amounts to torture. For example, they must not use any form of punishment that could be considered inhuman or degrading. The prison authorities should also protect you from suffering inhuman, degrading treatment or torture inflicted by other prisoners. Article 3 is not limited to acts of physical ill-treatment; it also covers causing psychological distress, such as either triggering mental health problems or making them worse. Under Article 3, the prison also has a duty to effectively investigate complaints regarding inhuman or degrading treatment. This is explored in more detail below.
- Article 7 of the Convention prevents you from being punished without law. This means you cannot be charged with a criminal offence for something that was not a crime when you committed it. It also prevents you from receiving a heavier punishment (i.e. a heavier sentence) than was available at the time you committed an offence.
- Article 8 of the Convention protects the right to a private life, family and correspondence. This is a very broad right and your status as being transgender comes under the scope of its protection. Any interference with your private life must be in accordance with the law. This means that it must be on the basis of a rule or policy of the prison, and that it must be proportionate; i.e. any interference must be no more than is necessary.
- Article 10 of the Convention protects the right to freedom of expression.
- Article 11 of the Convention protects the right to freedom of association.
- Article 12 of the Convention protects the right to marry.
- Article 14 of the Convention requires that all of the rights and freedoms set out in the Act must be protected and applied without discrimination.

Below are some examples of where your human rights might be engaged as a transgender prisoner. These are only examples and are not exhaustive; each case turns on its own particular facts.

Your Article 3 rights may be engaged if you are unlawfully subject to an intimate examination by prison officers (see pages 17 – 19). They may also be engaged if the prison refuses, or fails, to refer an allegation made by you that another prisoner has seriously assaulted you. Severe cases of transphobic abuse may also engage Article 3.

Your Article 8 rights may be engaged if the prison service makes unlawful decisions regarding your imprisonment; for example, refusing you access to gender affirming clothing, failing to allocate you to the correct prison, failing to conduct the right type of search on you, or subjecting you to transphobic abuse and constant mis-gendering.

Your Article 14 rights may be engaged if you are discriminated against, because you are undergoing (or seeking to undergo) gender reassignment, or because you are transgender (as this is protected by Article 8).

WHAT TO EXPECT FROM STAFF AND OTHER PRISONERS

All prison staff have a duty to comply with the Equality Act 2010. You can read more about this in Prison Service Instruction (PSI) 32/2011 'Ensuring Equality' (which should be available to you in the prison library). Staff also have a duty to comply with the Human Rights Act 1998. If they fail to comply with the Equality Act 2010 or fail to act in keeping with your Convention rights, you may be able to bring legal proceedings against them (see pages 20-22).

Unfortunately, the Equality Act 2010 only prohibits discrimination by prison officers, as under the Act they are considered a service-provider. The Act does not legally stop other prisoners from being transphobic, homophobic or bi-phobic. That does not mean however that the prison should not take action when these incidents arise. PSI 32/2011 makes it clear that staff have a responsibility to take action to address cases of harassment, discrimination and inappropriate behaviour.

The prison also has a responsibility to address equality issues under the 'Public Sector Equality Duty'. This is a general duty under the Equality Act. When exercising its functions and powers, the prison must have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act
- Advance equality of opportunity between people who share a protected characteristic and those who do not
- Foster good relations between people who share a protected characteristic and those who do not

The Equality Act explains that the second aim (advancing equality of opportunity) involves, in particular, having due regard to the need to:

- Remove or minimise disadvantages suffered by people due to their protected characteristics
- Take steps to meet the needs of people with certain protected characteristics where these are different from the needs of other people
- Encourage people with certain protected characteristics to participate in public life or in other activities where their participation is disproportionately low
- An example of how a prison might fulfil its duties under the Public Sector Equality Duty would be to set up LGBTQ groups for prisoners, or make sure that each wing or spur has an Equalities Representative

SEX IN PRISON & SEXUAL HEALTH

Sex in prison is still very much a taboo subject, although we know it does happen. There is no formal policy on relationships or sex in prison (see also Cell sharing and relationships on page 26). Relationships, and sexual relationships in particular, are managed through prison decency policies. PSI 30/2013 'Incentives and Earned Privileges', imposes a behavioural requirement on prisoners, which states that they must act, "with decency at all times, remembering prisons / cells are not private dwellings (this includes not engaging in sexual activity)."

It should be noted, however, that the Prison Rules do not prohibit sexual acts between prisoners and consensual acts would not count as an offence in and of themselves.

Should you have sex in prison it is important that you look after your physical and emotional well-being.

Condoms

As a prisoner you can access condoms should you need to. Use of a condom can effectively reduce the risk of HIV/AIDS, gonorrhoea, chlamydia, and syphilis, and offers some protection against genital warts and herpes.

PSO 3845 'Blood Borne and Related Communicable Diseases', provides that condoms may be prescribed in prison if, in the clinical judgment of a doctor, there is a risk of HIV or other sexually transmitted diseases (STDs).

Different prisons have different procedures for this. For example, in some prisons condoms are readily available, whereas in others they are only available on specific request. Condoms may also be requested from nurses at Healthcare.

As a prisoner, you have the same rights to access the quality and range of NHS services as the general public. This is provided for in Prison Rule 20 and section 249(1) of the National Health Service Act 2006.

As a trans prisoner you have the right to access HIV treatment and treatment for any STD. Some prisons provide their own STD clinics, which are operated by external NHS services. Your prison healthcare provider, however, must ensure that these services are set up for you to use.

PrEP (Pre-Exposure Prophylaxis)

PrEP (pre-exposure prophylaxis) is a drug which prevents people from getting HIV. It can be taken by people who do not have HIV but are at risk of getting it. In March 2020 the NHS announced that PrEP was now available on prescription.

For more information on sexual health in prison contact the Terrence Higgins Trust (details are listed on page 36).

Though sex in prison can be consensual, it can also be coerced. This is a criminal offence (see section on reporting sexual abuse on page 25).

Medical confidentiality

Those working in healthcare, whether a GP, nurse or administrative staff, have a legal and professional, ethical, duty to not disclose any of the information you share with them to any other party without your express consent. This is known as the duty of confidentiality. All the information you share with healthcare should remain private and should not be shared with others – including prison officers – other than with your express permission.

This means that whatever is recorded about your health care (e.g. records from appointments with the doctor, sexual health, mental health nurse or dentist) should not be accessible by prison officers (unless you give permission for it to be shared) and your health records are kept separately from your case record files.

The NHS Guidelines on Confidentiality document provides a 'Confidentiality Model' which all prison healthcare providers should adopt. Prison healthcare providers should:

- protect your information from being shared
- inform you as to how your information will be used and provide you with a choice as to whether you want it to be shared

Your consultations with your GP, nurses or healthcare should be conducted in private. This should be out of sight or hearing of prison officers.

Self-harm

We know that transgender prisoners experience a high level of anxiety and distress in prisons and this can lead to self-harm and self-injury. People engage in self-harm and self-injury for many different reasons and it is important not to make assumptions or judgments about why someone might self-harm. If you are self-harming, the first port of call is to speak to a wing officer, your personal officer or healthcare. If you are worried about someone else who is self-harming, you

should speak to Safer Custody in the prison. The prison can only help you if they know what is happening and how you are feeling. Family members can also contact the prison on the telephone and ask to speak to Safer Custody.

You may also want to call the Samaritans on 116 123. This is a free and confidential service (which means that the prison should not listen to your phone calls with them). It should be available to call free from your PIN phone. You can also speak to a Listener within the prison if you feel that you are able to trust them.

REPORTING SEXUAL ABUSE AND TRANSPHOBIC VIOLENCE TO THE POLICE

Sexual violence or assault in prison is never acceptable. The prison has a duty to protect you from sexual assault and transphobic abuse. If you have been a victim of sexual assault or violence, it is important that you speak to someone you trust in order to seek support. If you wish to report it you can contact the Police Liaison Officer in your prison. You can do this by making a wing application. You can also speak to your personal officer. You should never be prevented from reporting these crimes.

We understand that reporting these incidents can be a very stressful and emotional time. It might be that you want to discuss what happened to you with healthcare, a friend in prison, or with a legal representative. You may also call, or write to, PAS.

What the prison has to do

Before reporting an abusive incident to the police, the prison will first consider whether the case can be dealt with by the Prison Adjudication System, and whether the victim wants the crime to be referred to the police. The Prison Adjudication System will, however, not be suitable where there has been an allegation of a serious assault or sexual violence.

Where allegations of serious assault or abuse have been made, the prison must refer these to the police. In practice each prison has a Police Liaison officer and if you want to report a crime you should ask, or make an application to see, the Police Liaison officer.

The Police's duty to investigate a crime

Not every crime reported to the police will be investigated. However, the police do have a duty to investigate serious sexual and violent assaults. The police should investigate a crime in prison in the same way as they would do if the incident had happened in the community.

The Victims' Right to Review Scheme

If the police investigate and decide not to bring proceedings where they have the authority to do so, or if they decide not to refer your case to the Crown Prosecution Service (CPS), then you can apply for that decision to be reviewed. This is known as the Victims' Right to Review Scheme. You will need to write to the local police force who investigated your complaint and ask for a review of their decision. Their contact details will be provided on their official correspondence with you.

You should make a request for a review within three months of being notified of the police's decision. After this time requests for review are dealt with at the police force's discretion. Once you have made a complaint a review should take place and a decision should be communicated to you within 30 days of the date of the request.

The CPS also operates a Victims' Right to Review Scheme. Under the scheme you can write to the CPS and ask them to review their decision if it relates to a CPS decision not to charge someone with an offence or not to prosecute someone. A request for a review should be made within three months of the date of the CPS decision not to take action.

CELL SHARING

You can ask to share a cell with another LGBT+ prisoner, if you have concerns over your safety, or there are issues with your current cell mate. However, there is no right to share your cell with another LGBT+ prisoner even if you are in a relationship with them.

If you share a cell, you and the person you share with will undergo a cell sharing risk assessment. The assessment will record the level of risk each prisoner is deemed to pose and whether there are any factors which indicate potential risks. You should not be sharing a cell with someone who is known for violence against the LGBT+ community. If you are, it is important to raise this to a member of staff immediately, either through your personal officer or another officer within the wing office.

The prison has a duty of care towards you to protect you from harm whilst in prison. The prison could be in breach of their duty of care towards you if you are located in a cell with a prisoner who is known to commit offences against LGBT+ prisoners. If any harm came to you as a result, then a civil claim in negligence could be issued in the courts and you could be awarded compensation for any injuries you received. If you ever find yourself in similar circumstances, you should contact a solicitor immediately or call, or write to, PAS.

Cell sharing and relationships

Some prisoners form relationships in prison and wish to share their cells with their partner.

As noted on page 23, there is no formal policy on relationships or sex in prison.

PSI 5/2018 states at paragraph 1.111 that *“If two prisoners sharing a cell are in a relationship and engage in sexual activity during the night when they have a reasonable expectation of privacy, a disciplinary charge may not be appropriate.”*

What does this mean for me?

Practically, this means that you may be able to share a cell with your partner. However, if you are caught having sex, then the prison can separate you. In extreme circumstances you may face disciplinary charges. If this happens you should speak to a solicitor or call, or write to, PAS.

SEPARATE ACCOMMODATION UNIT FOR TRANSGENDER WOMEN

There is separate accommodation for transgender women with a GRC in the women’s estate. This is located at HMP Downview, a women’s prison situated on the outskirts of Banstead in Surrey. This unit at HMP Downview is for transgender women with GRCs who are assessed as posing a risk of harm to cis women or have displayed disruptive behaviour which means they cannot safely be managed in the women’s estate. The unit is separate from the rest of the prison with a restricted regime.

There is also a unit for transgender women (without or without a GRC) at HMP Leyhill. HMP Leyhill is a men’s prison located in Tortworth in Gloucestershire. It is unclear how these units are operating and whether they may infringe on your legal rights. If you are unsure and would like advice, please call, or write to, PAS.

COMMUNICATION WITH LGBT+ PRISONERS AND GROUPS, AND ACCESSING LGBT+ MATERIALS

Corresponding with Other Prisoners

PSI 49/2011, Prisoner Communication Services, at 2.24 (which should be available to you in the prison library) provides that correspondence between convicted prisoners requires the

approval of both Governors of the prisons concerned, except where the prisoners are close relatives or where they were co-defendants at their trial and the correspondence relates to their conviction or sentence. Generally, the Governor of each prison will have to approve the request before correspondence can be sent.

Prisoners may also be allowed to correspond with ex-prisoners, in the community, subject to any concerns there may be regarding threats to security, and, if on licence, the views of their offender manager.

Communication with LGBT+ organisations

There is no rule against writing to LGBTQ organisations. One potential difficulty, however, is that some organisations use a PO BOX for correspondence.

PSI 49/2011 at 2.25 states that, “prisoners must not normally be allowed to write to a PO Box number, but if the prisoner does not know the private address of the correspondent, the Governor may, if satisfied that security is not threatened, allow the letter to be sent *(this would not normally be an issue where the person/organisation is a recognised body is a recognised body, such as PAS, the Bent Bars Project or the Samaritans)*.”

If you are having difficulties corresponding with an LGBTQ organisation, you should follow the complaints process below to try and resolve it.

Access to LGBT+ reading materials and magazines with LGBT+ content

Prison Rule 33, says that every prison shall have a library and every prisoner shall be allowed to have access to books and to exchange them.

PSI 02/15, Prison Library Service, sets out what materials the prison library should stock. It says that the range of stock should reflect the nature and requirement of the prison population and regime. Consideration should also be given to providing materials in a range of languages. DVDs and computer games with ‘18’ rated certificates are not permitted to be stocked.

Prison libraries should also stock newspapers and magazines. PSI 02/15 and rule 33 of the Prison Rules provides that these will be stocked according to decisions made within the prison you are in. If the prison has funds, it can provide newspapers and magazines which reflect the needs of the local prison population. It is reasonable to expect that a prison library would stock some LGBT+ material. If it does not, you can speak to your prison librarian and request that they obtain some.

Access to materials which contain adult content

PSI 12/11 ‘Prisoners Property’ sets out what items you are allowed to possess in prison. At paragraph 2.19, the policy sets out where materials may be confiscated:

The Governor must temporarily confiscate any newspaper, periodical or magazine or any particular issue, or any book, if he or she considers that the content presents a threat to good order or discipline or the interests of prison or national security, or that possession of the material is likely to have an adverse effect on the prisoner’s physical or mental condition...The Governor must also impose restrictions on the display of material which he or she considers to be likely to cause offence by reason of its indecent or violent content, or to be inconsistent with the prison’s commitments to eliminate discrimination and harassment and to promote equality, taking account of local circumstances.

Further guidance as to what is meant by indecent or violent content is provided by Chapter 10 of the National Offender Management Service (NOMS; now Her Majesty’s Prison & Probation

Service) Public Protection Manual (January 2020). Material must not be provided to a prisoner if it:

- *It is obscene within the meaning of the Obscene Publications Act 1959. This covers the publication of material that has a tendency to “deprave and corrupt” those likely to read, hear or see it. No absolute definition of “obscene” is possible; each individual item has to be judged on its own merits. The CPS website has a list of the types of content that might be prosecuted, but this is not exhaustive. It is important to note that obscenity is not confined to images. Written material can be obscene as well, eg graphic descriptions of child abuse. Also, obscenity is not limited to material of a sexual nature*
- *It uses threatening words and is intended to stir up racial or religious hatred contrary to the Public Order Act 1986 and the Racial and Religious Hatred Act 2006*
- *It features children inappropriately (such as indecent images, or pseudo-photographs, images made by computer graphics or otherwise – which appear to be of children)*
- *It is extreme pornography (i.e. that the images are pornographic and they are grossly offensive, disgusting or of an obscene character and portray violent acts)*
- *It is otherwise sexually explicit. This restriction applies even though the material in question may be legal and/or no longer classified as obscene. “Explicit” means any image of:*
 - *ejaculation;*
 - *penetration (whether oral, vaginal or anal);*
 - *a young person (whether naked or clothed)*
 - *a sexual act that depicts restraint, coercion or violence*
- *It promotes or supports acts of terrorism, domestic extremism or radicalisation*
- *It is a film, video game or other material to which the BBFC has refused a certificate*
- *It is an 18-rated film and or video game (see PSI 30/2013 Incentives and Earned Privileges, paragraphs 10.6 to 10.11)*

All decisions to withhold or remove material must be based on an assessment of the effect of the material on the rehabilitation or offending behaviour of the prisoner requesting it, or of other prisoners, crime prevention, or of the effect of the material or its display on good order and discipline. Other considerations - in particular, anyone’s personal views - should not be taken into account.

Governors’ powers over the display of materials are wider than over their possession: while it may be possible to ban some items from display because of their capacity to cause offence to others, it will not usually be reasonable to prevent their possession solely for that reason.

Any restrictions adopted (including completely withholding materials) must be necessary and proportionate to the nature of the risk, and must be the least needed to address that risk. Proper account must be taken of the prisoner’s right to receive information and the general Her Majesty’s Prison and Probation Service (HMPPS) policy of not applying censorship. These must be balanced against the potential harm before a decision is taken.

LGBTQ INITIATIVES IN PRISON

Some prisoners find it helpful to create support networks in prison by setting up LGBTQ groups and events. However, the opportunities for such activities vary across the prison estate. Some prisons have LGBTQ groups that prisoners can join. Some even organise pride activities.

If your local prison does not have much to offer by way of LGBTQ projects or groups, your first port of call should be speaking to your Equalities Representative on your wing, or the prison’s Equalities Officer.

Prisons have a duty, known as the Public Sector Equality Duty, (referred to above) to advance equalities opportunities. If your prison does not have a LGBTQ group, they have a duty to consider whether one would help eliminate discrimination. If, after taking the relevant steps, the prison still refuses to provide LGBTQ projects or groups, then you should consider whether you wish to make a complaint.

WHAT TO DO IF YOU THINK YOUR RIGHTS ARE NOT BEING RESPECTED

Making a COMP1 or DIRF Complaint

If you feel that you have been a victim of discrimination or that your human rights have been breached there are number of steps you can take.

- First, you can speak to a friend, or the Equalities Representative on your wing and liaise with them
- Second, you can speak to your Equalities Officer, who will be a member of prison staff. You can make an application on your wing to see them
- Third, you can submit a complaint, either by form COMP1 (when the complaint does not require confidentiality) or by DIRF (Discrimination Incident Reporting Form) (when the complaint is about discriminatory behaviour). These can be found on your wing or in the prison library. There should also be envelopes available for you to submit them confidentially

Prisoners’ Complaints are dealt with in the Prisoner Complaints Policy Framework. The framework provides that:

- Complaints should normally be submitted within three months of the incident or of the circumstances which give rise to the complaint, or the date on which they became known to the prisoner
- Complaints should be posted into the locked ‘Complaints’ boxes on the wings
- You should normally receive a response to a COMP1 within five working days (10 working days if the complaint involves another establishment or is against a member of staff)
- If you are not satisfied with the response you can submit a COMP1A (“Stage 2” appeal, see page 30) or a further DIRF
- Fourth, you can make a complaint to the Prison and Probation Ombudsman (PPO). The PPO is independent from the prison service and if it accepts your complaint you will be allocated a caseworker who will investigate (see page 30)
- Finally, you may wish to consider obtaining legal advice and taking legal action. This can be done at any stage, however, a solicitor will need to see evidence of complaints and the responses you have received in order to fully advise you of the next best steps in your case

At any point during this process, you can also call, or write to, PAS for advice and support.

How the Prison Should Deal With DIRF Complaints

PSI 32/2011 ‘Ensuring Equality’ at Annex F provides specific guidance as to how DIRFs should be processed. The PSI states that:

- All DIRFs must be logged by the prison
- If a DIRF concerns a serious incident and/or allegation of misconduct by staff, it is usually referred to an investigation
- Prisoners must be informed of what is happening with their complaint and any outcome of the investigation
- DIRFs concerning other issues that do not amount to a serious incident or misconduct by staff should be handled by a management-level member of staff
- As part of the complaint process you should be interviewed by the manager and they should explore with you the issue that you have raised
- The manager should then seek to address the issue through appropriate means, which may include informal conflict resolution, action through systems such as IEP, adjudications etc., or specific action to expedite an outcome
- A written response explaining the action taken should be sent to you in all cases
- Where a prisoner is not satisfied about the outcome of a DIRF with regard to an incident to which they have been subject, they should submit a “Stage 2” complaint (see below)

Stage 2 Complaints

If you are unhappy with the “Stage 1” response to a COMP1 (meaning the initial response to your complaint), you have a time period of seven calendar days to make a “Stage 2” appeal to management on a COMP1A form. You can expect a response to a COMP1A within five working days.

The Prisons and Probation Ombudsman (PPO)

If you are unhappy with the response to a COMP1A (“Stage 2”) appeal you should contact the Prisons and Probation Ombudsman (PPO) at:

The Prisons and Probation Ombudsman, Third Floor, 10 South Colonnade, Canary Wharf, London E14 4PU

- The PPO is independent from the prison and you will be allocated a caseworker who will receive all the documents from the prison about what happened to you.
- A finding by the PPO that you have been discriminated against is important. The PPO can also award you compensation and ask that the prison apologise to you.
- The time limits for complaints to the PPO are based on the date that you receive the final response from the prison and are set out as follows:
 - You must submit your complaint to the PPO within three months of receiving the final response from the prison
 - If you have not received a final response from the prison within six weeks of the final stage of the complaint you can contact the PPO (in practice they will rarely take the complaint at this point but should contact the prison to see why they have not replied to you)
 - Unless there are exceptional circumstances, your complaint must be submitted within 12 months of the actual events complained of

Confidential Access Complaints (COMP2)

If your complaint relates to a specific staff member and you do not wish them to see your complaint, you should use the confidential access system by completing a COMP2. Always read the notes on the form carefully to see if your complaint is suitable for confidential access. You should normally receive a response to a COMP2 within five working days if addressed to the Governor / Director, or within six weeks if addressed to the prison group Director / the Director’s Line Manager.

If you think your complaint is suitable for confidential access, place the complaint in the envelope and seal it. Then address it to the person who you want to read it. This must be one of the following: the Governor / Director of the prison where you are held, the prison group Director /the Director’s Line Manager in a contracted prison, or the Chair of the local Independent Monitoring Board (IMB). Then, post the envelope in the ‘Complaints’ box. The envelope will only be opened by the person to whom it is addressed. Also, written submissions may be sealed in an envelope, marked Confidential Access and posted in the ‘Complaints’ box.

The Independent Monitoring Board (IMB)

The IMB is responsible for monitoring the treatment of prisoners to ensure that it is fair, just and humane. By law, every prison must have an IMB and, although it does not constitute a stage in the formal complaints procedure, prisoners can complain to the IMB and ask them to investigate matters within the prison for them. Forms to make an application to the IMB should be available on your wing. You should fill out the form and put it in the box marked ‘IMB’.

Legal Claims

If your complaints are not resolved by the prison service, you may want to consider taking legal advice to see if you can take legal action.

In order to obtain the correct legal advice, you will need to have secured evidence relating to your case, by taking the above practical steps via complaining or speaking to officers.

It is important that you make a complaint as soon as an event happens. You need a clear paper trail in order to show that the prison has acted in an unlawful way. Use the information above in order to point out to the prison that what they have done is unlawful.

We understand at PAS that complaints can be lost. We would advise you to keep a separate note of the complaints you have made in case they do get lost. That way you will have a separate log of all the events. You may also want to approach other prisoners or other members of staff to see if they are willing to support you, or confirm your side of the story. If they have viewed the incident directly themselves, they can also make a complaint.

Once you have made a complaint you will need to consider whether the response you receive deals with your complaint adequately. If it does not, you may want to approach a solicitor – or PAS – to see if they are able to provide you with advice as to whether you can bring a legal claim.

Types of Legal Claim

There are two types of claim that prisoners can bring if they feel they have been discriminated against, or that their human rights have been breached: (1) a civil claim; and (2) a judicial review. These are explained below:

(1) Civil Claims

Civil claims usually concern events that have happened in the past, and are not to do with ongoing treatment.

For example, if in the past six months you may have been subject to transphobic treatment by a prison officer, and this has not occurred again; in those circumstances you may be able to bring a claim for discrimination against the prison, and/or a claim for a breach of your Article 8 rights of The Human Rights Act 1998 (see page 22).

Both human rights claims and discrimination claims have time limits. These are limits imposed by the law to make sure that you bring your case to court in time.

For most discrimination cases, the time you have to bring your case to court is within six months. (This means that you must bring a claim before those six months are up. Claims can sometimes be brought after those six months are up. For example, if there is continuous ongoing discrimination. The courts also can grant what is known as an extension of time to bring a case. However, they are not always granted, and extension of time is the exception rather than the rule and cannot always be relied upon. Where possible it is always best to speak to a solicitor, or contact PAS, to get advice in relation to time limits to bring claims).

For Human Rights Act 1998 cases, the time limit in which to bring your case to court is within one year of the date of the decision or action you are complaining about.

For negligence claims, the time limit in which to bring your case to court is three years if you have suffered a personal injury (i.e. either a physical or mental injury) or six years if you have not suffered an injury.

Time limits are very important in civil claims, so it is always best to act quickly. It is always

important to identify whether you have a claim so that the above time limits can be adhered to. If you are unsure whether your claim is valid, one of PAS' Caseworkers will be able to assist you.

(2) Judicial Review

Another type of claim is known as judicial review. This is a procedure where you challenge a particular decision as unlawful by asking a judge to review it.

Judicial review concerns decisions made by prison staff and officers, or failures of prison staff and officers and the treatment is ongoing.

For example, a claim for judicial review would be appropriate where:

- a decision has been made that you and your partner with whom you share a cell should be separated;
- a decision has been made that you are not permitted to access LGBT+ reading materials;
- a decision has been made that you should receive an adjudication for being caught having sex in your cell

A judicial review claim has to be brought promptly and, in any event, within three months of the date of the decision you are challenging. It is therefore important to act quickly. Additionally, before you can bring a claim for judicial review you have to show that you have used the prison's complaint system. You should therefore make sure you submit your COMP1s, COMP1As, COMP2s and DIRFs in a timely manner.

Legal Aid

Legal Aid (public funding) may be available to take actions for judicial review and to bring civil claims for breaches of the Equalities Act 2010 and the Human Rights Act 1998. In the majority of cases a solicitor can make an application on your behalf to claim Legal Aid. An application for Legal Aid is subject to a merits test (i.e how likely it is that you will win your case) and a means test (i.e. how much money you have available to you).

ORGANISATIONS THAT CAN HELP WITH LGBT+ ISSUES

PRISONERS' ADVICE SERVICE



PAS offers free legal advice and support to adult prisoners throughout England and Wales regarding their human and legal rights, conditions of imprisonment and the application of Prison Law and the Prison Rules. We can also advise on matters of Family Law, and of Immigration Law to prisoners with issues relating to detention or deportation.

We pursue prisoners' complaints about their treatment in prison and, where appropriate, we take legal action on their behalf. Examples of issues PAS can advise upon include: parole, temporary release, indeterminate sentences, categorisation, adjudications, sentence calculation, licence and recall, discrimination, contact with children, resettlement and healthcare matters.

If you would like to speak to a Caseworker at PAS, call us on: **020 7253 3323**

Our Advice Line is open on Monday, Wednesday and Friday between 10am and 12.30pm, or 2pm and 4.30pm, or on Tuesday evening between 4.30pm and 7pm.

Or write to us at: **Prisoners' Advice Service, PO Box 46199, London EC1M 4XA**

(When writing, mark your envelope, "Legal Mail Rule 39". This ensures the letter is not opened by prison staff.)

THE BENT BARS PROJECT



The Bent Bars Project is a letter-writing project for lesbian, gay, bisexual, transgender, transsexual, gender-variant, intersex and queer prisoners in Britain.

The project was founded in 2009 in response to a clear need to develop stronger connections and build solidarity between LGBTQ communities inside, and outside, of prison walls.

Bent Bars aims to work in solidarity with prisoners by sharing resources, providing mutual support and drawing public attention to the struggles of queer and transgender people behind bars.

The project also collects and distributes information for LGBTQ prisoners on a range of issues, including: harm reduction practices (safer sex and safer drug-use), HIV and HepC prevention, homophobia, transphobia, coming out in prison.

If you would like to sign up to the Bent Bars letter-writing project, write to us at: **Bent Bars Project, PO Box 66754, London WC1A 9BF**

BLACKOUT UK



BlackOut UK is a not-for-profit social enterprise run and owned by a volunteer collective of black gay men. They aim to encourage and stimulate debate and discussion online and face-to-face through their website, writer workshops, networking events, and supporting interventions to meet the needs of black queer men.

You can contact them via email at:
blkoutuk@gmail.com

BOOKS BEYOND BARS



Books Beyond Bars send books and other educational materials, free of charge, to incarcerated LGBTQIA+ people across the United Kingdom.

If you would like a copy of their main order form (or a discreet version with the full name of the project and any specific reference to LGBTQIA+ content removed), you can contact them via email on:
booksbeyondbarsuk@gmail.com

Completed order forms can be sent to:
Books Beyond Bars, PO Box 5554, Manchester, M61 0SQ

ELOP



ELOP is a holistic lesbian and gay centre that offers a range of social, emotional and support services to LGBT communities. Core services include counselling and young people's services.

They can be contacted by telephone on:
020 8509 3898; or email them at:
info@elop.org

GALOP



Galop supports lesbian, gay, bisexual and trans people experiencing hate crime, domestic abuse or sexual violence.

Call their National Lesbian, Gay, Bisexual and Trans+ Domestic Abuse Helpline on:
0800 999 5428

Their email is: advice@galop.org.uk

PETER TATCHELL FOUNDATION



The Peter Tatchell Foundation provides help and support to hundreds of victims of human rights abuses, including homophobia, biphobia and transphobia.

Call the foundation on: **020 3397 2190**

Or write to them at: **The Peter Tatchell Foundation, 14 Marshalsea Road, London SE1 1HL**

GENDER AGENDA



Gender Agenda exists to raise awareness of, and to train/consult/educate on, LGBTIQ issues, particularly on issues of Trans, InterSex and Queer/Fluid/Non-Binary gender. Experienced in working with prisons and the police. Key areas of work include: advice and information; advocacy; counselling; discrimination; domestic abuse; gender; mental health.

Gender Agenda is also able to interpret, and help in implementing, LGBTIQ rights under the Equality Act 2010.

Call them on: **07808 970429**

Or write to: **Zone 5, Wrentham Business Centre, Prospect Park, Exeter, EX4 6NA**

GENDERED INTELLIGENCE



Gendered Intelligence is a charity whose mission is to increase understanding of gender diversity. It works with the trans community and those who impact on trans lives.

Gendered Intelligence does not provide an advice or support service. However, it does have a large variety of resources dealing with trans issues.

You can call the Gendered Intelligence office on: **0207 832 5848** between 9am and 6pm.

Or write to: **VAI, 200a Pentonville Road, London N1 9JP**

PRISON REFORM TRUST



The Prison Reform Trust (PRT) is an independent UK Charity working to create a just, humane, and effective penal system. They offer advice and information to prisoners and their families.

You can call their Prisoners' Families Helpline on: 0808 808 2003 between 9am and 8pm. A short voicemail can also be left on the Advice and Information Service on :
0808 802 0060

Or write to them at: **Prison Reform Trust, FREEPOST ND 6125, London EC1B 1PN**

Alternatively you can email at:
advice@prisonreformtrust.org.uk

SAMARITANS



The Samaritans work to reduce suicide and self-harm in prisons, where prisoners are between five to ten times more likely to take their own lives than those on the outside.

If you are self-harming, or you are worried about someone who is, you can call their Helpline. All prisons are required to allow prisoners access to the Samaritans' Helpline free of charge.

Their Helpline number is: **116 123**

Or write to them at: **Samaritans, Freepost RSRB-KKBY-CYJK, PO Box 9090, Stirling FK8 2SA**

SWITCHBOARD LGBT+ HELPLINE



Switchboard provides an LGBT+ Helpline, offering a safe space for anyone to discuss LGBT+ related issues, including sexuality, coming out, gender identity, sexual health, abuse and emotional wellbeing.

You can call the Helpline on: **0300 330 0630** – it is open 10am to 10pm every day.

Their address is: **Switchboard, PO BOX 7324, London N1 9QS**

STONEWALL



Stonewall was founded in 1989 by a small group of people who had been active in the struggle against Section 28 of the Local Government Act. They work to empower individuals, and focus on changing and protecting laws to ensure equal rights for LGBT people.

You can contact their information service (freephone) on: **0800 050 2020**, Monday to Friday 9.30am to 4.30pm

Or write to them at: **Stonewall, 192 St. John Street, London, EC1V 4JY**

THE TERRENCE HIGGINS TRUST



The Terrence Higgins Trust is the UK's leading HIV and sexual health charity. Its aim is to contribute to the end of HIV transmissions, improve sexual health and support people living with, and affected by, HIV and poor sexual health. It ensures that the voices of people affected by HIV are heard.

If you would like advice and information about HIV, call THT Direct on: **0808 802 1221**

Or write to: **Terrence Higgins Trust, 314-320 Gray's Inn Road, London WC1X 8DP**

UK BLACK PRIDE

UK BLACK PRIDE

Alongside the official annual UK Black Pride Event, the organisation also provides community outreach and advocacy for the experiences of the UK's black LGBT community.

Their email address is:
Josh@ukblackpride.org.uk

UK LESBIAN & GAY IMMIGRATION GROUP (UKLGIG)

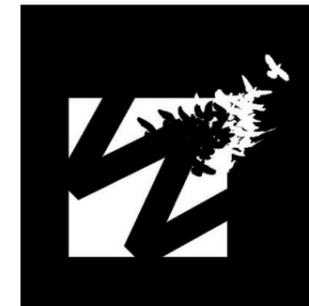


The UK Lesbian & Gay Immigration Group supports LGBTQI+ people through the asylum and immigration system. They provide psychosocial and emotional support for LGBTQI+ people seeking asylum to help improve their confidence and self-esteem and reduce isolation. They also provide legal information and advice, and campaign for improved treatment of people seeking asylum.

If you require support or advice you can call on: **020 7922 7811**, Monday to Friday during Office hours.

Or write to them at: **UKLGIG, CAN Mezzanine – Borough, 7-14 Great Dover Street, London, SE1 4YR**

WOMEN IN PRISON



Women in Prison delivers independent, non-judgmental and friendly support to women across the women's prison estate.

You can call WiP on freephone
0800 953 0125

Or write to: **Women in Prison (Freepost), 2nd Floor, Elmfield House, 5 Stockwell Mews, London SW9 9GX**

Glossary

Below are some terms which are used in this Toolkit and which may be useful more generally. It is important to note that language, definitions and terminology often evolve and change. This is particularly the case with language around gender identity and trans identities. It is also important to recognise that people may choose a range of terms to describe their own identity and it is important to respect people's preferences.

Acquired gender - used to describe a person's gender after transitioning. This is a legal term. Many people now prefer to use the term "affirmed" gender (see below).

Advanced disclosure - used to describe the information you should receive before you have a meeting with the Local Case Board or the Complex Case Board.

Affirmed gender - used to describe a person's gender after transition, rather than the gender they were assigned at birth.

Assigned sex or assigned gender - the sex/gender that was assigned to someone at birth, usually based on their physical characteristics.

Complex Case Board - used to describe a review process where a number of senior professionals within the Ministry of Justice meet to discuss your case. Only Complex Case Boards have the power to move you to either the male or female estate.

Cross dresser - someone who chooses to wear clothes not conventionally associated with their assigned gender. "Cross dresser" is now used in preference to the term "transvestite", which is considered to be outdated and can cause offence. Cross dressers are generally comfortable with their assigned gender and do not intend to transition.

Gender dysphoria - used when a person experiences discomfort or distress because there is a mismatch between their sex assigned at birth and their gender identity. This is also a medical term.

Gender expression - how someone chooses to express or convey their gender identity in the context of societal expectations, for example through their appearance and behaviour.

Gender / Gender identity - the gender that a person identifies as; a person's conception of their gender, their sense of self (e.g. if you identify as a man, or a woman or as non-binary). For trans people, their gender identity usually does not match the gender they were assigned at birth.

Gender reassignment (or transitioning) - the process where an individual changes their expressed gender to live in the gender with which they identify. For example, a person who was assigned female at birth might decide to take steps to live the rest of their life as a man. Gender reassignment does not require medical treatment and is a protected characteristic under the Equality Act 2010.

Gender Recognition Certificate (GRC) - a document that confirms a trans person is legally recognised in their affirmed gender (i.e. a gender that is different to that they were assigned at birth). A GRC also enables a person to be issued with a new birth certificate. Not all trans people will apply for a GRC and, currently, you must be 18 to apply. You do not need a GRC to change your gender markers at work or to legally change your gender on other documents such as your driver's licence, bank cards or passport.

Intersex - an intersex person may have the biological attributes of both sexes or those that do not fit with societal assumptions about what constitutes a male or female. An intersex person may self-identify as a man or a woman or neither.

Local Case Board - used to describe professionals that meet at your local prison to discuss issues as to how you can best be managed and cared for within your prison. A Local Case Board does not have the power to move you to a male or female prison.

Non-binary - an umbrella term to describe people whose gender identity is "fluid" and not exclusively male or female. A non-binary person may identify as neither male nor female or may feel that they embody elements of both genders, or that they are something different. The terms intersex and non-binary are not interchangeable; however an intersex person may identify as non-binary.

Non-trans person - Someone whose gender identity is the same as the sex they were assigned at birth. E.g. A person who was assigned male at birth and still identifies as male/lives as a man. Another similar term is 'cis-gender' which is used by some people instead of non-trans. 'Cis' is a prefix meaning "on the same side as," and is therefore the opposite of 'trans', which means to cross or change.

Prison Service Instruction/Order – this is a term used to refer to guidance that is issued by the Ministry of Justice.

Trans or Transgender - an umbrella term describing the diverse range of people whose gender identity or gender expression differs from the gender they were assigned at birth. Trans people may describe themselves using one or more of a wide variety of terms, including but not limited to: transgender, transsexual, gender-queer (GQ), gender-fluid, non-binary, gender-variant, cross dresser, genderless, agender, nongender, third gender, two-spirit, bi-gender, trans man, trans woman, trans masculine, trans feminine and neutral.

Transgender Man - a person who was assigned female at birth, but identifies and lives as a man; a female-to-male person.

Transgender Woman - a person who was assigned male at birth, but identifies and lives as a woman; a male-to-female person.

Transitioning - the steps a trans person may take to live in the gender with which they identify. Each person's transition is personal to them and will involve different things. For some this involves medical intervention, such as hormone therapy or surgery but this is not the case for everyone. Transitioning might also mean telling friends and family, dressing differently and changing official documents.

Transsexual - originally used as medical term to describe someone who has undergone gender reassignment. This term is still used by some, but many people prefer the term 'trans' or 'transgender'.

Transphobia - a fear, or a dislike, of trans people. It is based on prejudice and misunderstanding and can involve verbal abuse, physical violence and other forms of harassment.

Sex - The classification of a person as male or female. At birth, babies are assigned a sex, usually based on the appearance of their external anatomy. (This is what is written on the birth certificate.) A person's sex, however, is actually a combination of bodily characteristics including: chromosomes, hormones, internal and external reproductive organs, and secondary sex characteristics.

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Chryssy Hunter, Bent Bars Project – Advisor

Michelle Brewer, Garden Court Chambers – Advisor

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