

Information sheet for transgender people in prison

In 2016 the Ministry of Justice reviewed the way transgender people are treated in prisons. The review resulted in new guidance, Prison Service Instruction (PSI) 17/2016 *The Care and Management of Transgender Offenders*. This applied from 1st January 2017 and replaced the previous guidance.

This information sheet summarises some of the key points from the PSI based on the most common questions we are asked about this subject.

When can I tell someone about my gender identity?

You should have the opportunity to express the gender you identify with at the earliest opportunity and have that respected in the way you are communicated with and treated.

PSI 17/2016 says early identification is important so that decisions can be made and support put in place as soon as possible. It says that 'arrangements must be in place to determine the legal gender of all offenders at the first point of contact'.

Staff should not ask to see a Gender Recognition Certificate but can request to see your birth certificate.

However, you can show a Gender Recognition Certificate if you wish to. If you choose to do this, you should be treated as the gender identified on the certificate.

Information sharing

You should be asked to provide written permission for relevant staff to be told about your gender identity. This is so they have a better understanding of your needs and can take a more informed approach to planning your care and management.

If you refuse to give permission and you have legally changed your gender, your previous assigned gender should not be disclosed with other members of staff unless exemptions under section 22 of the Gender Recognition Act apply – there is more information about this in Annex E of PSI 17/2016.

How are decisions made about where I will be located in the prison estate?

To make decisions about location as well as to review the care and management of transgender people in prison, the PSI introduced multi-agency 'Transgender Case Boards'. There are three types of Transgender Case Board:

- Initial Local Transgender Case Board
- Local Transgender Review Boards
- Complex Case Boards

An Initial Local Transgender Case Board should take place when the pre-sentence report is prepared **or** within 3 working days of reception into custody.

The Initial Transgender Care Board should determine your location within the prison estate, the Board will consider:

- your legal gender
- the strength of any evidence of living in the gender you identify with
- all known risk factors

The PSI states that 'all local location and transfer decisions must be taken on a case by case basis where discretion may be applied.'

Where location decisions are agreed which are not in accordance with your legal gender, this must be signed off by the Deputy Director of Custody or the chair of the Complex Case Board (see below). Prior to this happening, initial location will be in accordance with legal gender.

The Initial Local Transgender Case Board should also form a local agreement for the initial care and management plan.

Following this a Local Transgender Review Board will provide opportunities to review these plans, and address concerns that you might have.

If cases are very complicated and the prison needs help deciding what to do, they can be referred to a Complex Case Board. This is centrally managed which means they include people from outside the prison. They are chaired by the Prisons Group Director for the Women's estate and can include someone from the Prison Service equalities team, your offender manager, a senior manager from the prison you are currently in, a healthcare lead, a Regional Lead Psychologist and others who might have knowledge or understanding of your case.

The PSI states that 'the offender must be provided with an opportunity to participate in and/or make their views known to all Transgender Case Boards'.

Searching Arrangements

Your view of searching procedures should be sought at the earliest opportunity and a voluntary agreement put in place as to how this should be done. Ideally searching arrangements should be discussed and included in initial agreements.

If you have applied for or have obtained legal recognition of the gender with which you identify you must be searched in accordance with this unless alternative arrangements are agreed.

It is important to note that searches must not be conducted to determine gender.

There is more information about this in Annex H of PSI 07/2016 *Searching of the Person*.

How can I maintain my gender identity in prison?

The PSI is clear that 'all transgender prisoners covered in this policy must be allowed to express their gender identity'.

Annex A of PSI 17/2016 gives details on supporting people to live in the gender they identify with.

You should be allowed to adopt a gender appropriate or gender-neutral name and be addressed by others consistent with the gender you identify with.

If you wish to legally change your name whilst in prison, there is more information in PSO 4455 *Requests from Prisoner to Change their Name*.

You should be able to dress in clothes suitable to the gender you identify with. These must be in line with relevant dress codes and subject to any requirement to wear prison issue clothing.

The PSI suggests that prisons should get guidelines about what clothing and personal care products are allowed in a comparable opposite gender prison to use as a basis for local policy.

Items to assist with presentation in the gender you identify with such as prostheses or padded bras may only be prohibited if they present a security risk which cannot be reasonably managed another way. The prison must be able to provide reasonable justification for applying any restrictions, which cannot include IEP levels.

Makeup items which are vital to presenting in the gender identified with, such as foundation to cover facial hair, may not be restricted. However, other make up may be restricted in line with the IEP framework.

Healthcare

Prisons must make sure that those who have been diagnosed with gender dysphoria have access to the same quality of care that they would expect to receive from the NHS if they had not been sent to prison. This includes access to counselling, pre-operative and post-operative care and continued access to hormone treatment.

If you were receiving medical treatment for gender dysphoria before you arrived in prison and ask for it to continue, it should be continued at least until the prison is able to speak to your gender specialist. It should only be stopped if the doctor in the prison has reasonable clinical grounds for doing so.

You can request access to private healthcare whilst in custody, but this will only be allowed if there are 'sound and demonstrable clinical reasons'.

If you would like to start medical treatment for gender dysphoria you should speak to healthcare staff who can advise further.

If you would like to start gender reassignment whilst in prison the prison GP must refer your case to a consultant specialising in gender dysphoria and get advice on how to proceed.

Care and management in the community

PSI 17/2016 covers aspects of care management in the community as well, particularly in relation to Approved Premises which may also be useful to you when you are due for release.

Complaints

If you do not think you have been treated fairly or in line with the Prison Service Instruction, you may wish to make a complaint.

If the complaint is about the prison service you can use the internal complaints system in the first instance. There is more information in PSI 02/2012 *Prisoner Complaints* and in our information sheet *How to Make a Complaint in Prison*.

If your complaint is about the healthcare service there will be a separate complaints process for this. Someone from healthcare will be able to give you information on this. This is a separate complaints system to the one used by the prison. There is more information in our information sheet *Your Health in Prison*.

Further information

The following may be of interest to you. If you are unable to access them elsewhere feel free to contact our Advice and Information Service and we will be happy to send you a copy.

Useful PSIs and PSOs (these should be available in the library):

PSO 4455 *Requests from Prisoner to Change their Name*

PSI 02/2012 *Prisoner Complaints*

PSI 07/2016 *Searching of the Person*

PSI 17/2016 *The Care and Management of Transgender Offenders*

Information sheets

Your Health in Prison - Prison Reform Trust

How to Make a Complaint in Prison - Prison Reform Trust

Healthcare - Prisoners' Advice Service

Transgender Prisoners - Prisoners' Advice Service

Contact our Advice and Information Service

We are a small service and we are independent of the prison service.

We can give you information on prison rules, life in prison and how to get help in prison.

Our freephone information line is **0808 802 0060**. This number is for **prisoners** only. This number is **free** and you do not need to put it on your PIN.

This number is open:

- Monday and Thursday afternoon from 3.30pm to 5.30pm.
- Wednesday morning from 10.30am to 12.30pm.

At other times, you can call on **0207 251 5070**. This number is open from Monday to Friday 10.00am - 5.30pm. This number is **not free** but you do not need to put it on your PIN.

You can also write to us at:

Prison Reform Trust
FREEPOST ND 6125
London
EC1B 1PN

You do not need to use a stamp.