

Review of care and management of transgender offenders

Terms of Reference

Scope and purpose

1. A review has been commissioned by the Secretary of State for Justice, Michael Gove, to ensure that the care and management of transgender offenders is fit for purpose and provides an appropriate balance between the needs of the individual and the responsibility to manage risk and safeguard the wellbeing of all prisoners.
2. The Review will develop recommendations for a revised approach to cover the future shape of prison and probation services for transgender prisoners and offenders in the community. It will also consider the approach for transgender offenders in the youth justice system.
3. It will include exploring the current case conference procedures, and make recommendations about revisions to PSI 7/2011.

Chair and review panel membership

4. The Review will be led by a senior official from the Ministry of Justice who will be engaging with relevant stakeholders, including from the trans community, to ensure we provide staff in prisons and probation with the best possible guidance. Peter Dawson, Deputy Director of the Prison Reform Trust, and Jay Stewart, a Director of Gendered Intelligence, will provide independent oversight.
5. The Government Equalities Office, NOMS, YJB and the NHS will provide professional and operational expertise.

Key principles

6. In taking forward its work, the Review will be expected to:
 - engage widely, openly and transparently at all times;
 - adopt an evidence-based approach, including making use of international comparisons;
 - promote the importance of inter-professional cooperation in achieving good outcomes;
 - consider the costs, benefits and implementation challenges of proposals, including the workforce; and
 - seek to achieve a broad consensus around final proposals.

Timeframe

7. The Review will be expected to conclude its work early next year.

Context and Background for information

8. The National Offender Management Service (NOMS) is committed to maintaining a safe and decent regime for all prisoners and offenders in the community, incorporating equality and diversity into everything it does and treating offenders with decency and respect. Transgender prisoners are normally placed according to their legally recognised gender.

However, we recognise that these situations are often complex and sensitive. Therefore, the current approach allows some room for discretion and, in such cases, senior prison management will review the circumstances in consultation with medical and other experts in order to protect the physical and emotional wellbeing of the person concerned along with the safety and wellbeing of other prisoners. Prisons must produce a management care plan outlining how the individual will be managed safely and decently within the prison environment, with oversight from psychologists, healthcare professionals and prison staff.

9. Whilst the most appropriate long-term location for a transgender prisoner will be considered in accordance with the procedures outlined above, the usual practice is for them to be held in a supportive environment away from the main regime of the prison and protected from risk of harm from other prisoners. The risk-assessed daily regime will be structured to enable the prisoner to have exercise and recreation and some measure of planned, supervised contact with other, trusted prisoners. Where relevant, clothing and toiletries are provided to enable the prisoner to present in their acquired gender, consistent with the arrangements set out in the Instruction.
10. More generally, prisoners who are transitioning are entitled to live in the gender they seek to acquire. Prisons must produce a management care plan outlining how the individual will be managed safely and decently within the prison environment, with oversight from psychologists, healthcare professionals and prison staff.
11. Whilst we do not currently have complete information on the number of transgender offenders in custody and the community the Minister for Prisons, Andrew Selous MP, has assured the House of Commons that he will look to publish information about the number of transgender people in prisons and serving community orders, in due course.
12. This definition ('transgender') denotes or relates to a person whose sense of personal identity and gender does not correspond with their birth sex.
13. Legal gender is determined by the individual's birth certificate. A Gender Recognition Certificate (GRC) is another source of confirmation of legal gender.