

Guidance on Prisoners who are Transgender

June 2025 (v2.1)

Document History

Document version	Date of Issue	Revision description
1.0	March 2021	This guidance was created as part of the Parole Board's project to launch fully revised and updated member guidance.
2.0	April 2025	<p>This guidance has been updated to:</p> <ul style="list-style-type: none"> • Reflect the updated data from the HMPPS Offender Equalities Annual Report (2023/2024) • Reflect the updated HMPPS Policy Framework (The Care and Management of Individuals who are Transgender¹), re-issued in November 2024 • Reflect new guidance in the Equal Treatment Bench Book • Expand the practice guidance to members to include Parole Board Decision Summaries and Victim Observer Requests • Note the Protected characteristics members are most likely to encounter
2.1	June 2025	Changes made following the Supreme Court Judgment in For the Women Scotland (Ltd) v the Scottish Ministers [2025] UKSC 16 .

¹ Please note this Policy Framework (at the time of writing) is currently under review. The hyperlink provided links to the most up to date version.

Contents

1. Purpose of this guidance	5
2. Key Messages	5
3. Relevant Definitions and Terminology	6
4. Relevant Legislation	8
<i>European Convention on Human Rights (ECHR)</i>	8
<i>Equality Act 2010</i>	9
<i>Gender Recognition Act 2004.....</i>	11
<i>Data Protection Act 2018</i>	12
5. Practice Guidance for Members	12
<i>Background and General Overview</i>	12
<i>Writing Decisions and Directions.....</i>	14
<i>Conducting Hearings</i>	15
<i>Victim Observer Requests</i>	18
<i>Parole Board Decision Summaries.....</i>	18
6. HMPPS Practice	19
Annex A.....	22

Executive Summary Prisoners who are Transgender

The full guidance can be read [here](#).

This piece provides practical guidance for members undertaking reviews where the prisoner is transgender. It defines key terms, signposts to legislation, and refers to aspects of the [HMPPS Care and Management of Individuals who are Transgender](#) Policy Framework.

Where possible, we have aligned this guidance with the [Equal Treatment Bench Book](#).

Key Messages (Section 2):

A person's transgender status will only become relevant if it is related to risk. If not related to risk, it should not form part of the decision-making

- It should be possible to work on the basis of an individual's chosen identity and preferred name/ pronouns, regardless of whether they have a Gender Recognition Certificate. However, there will be situations where it is clearly inappropriate.
- Panels will need to ensure that there is a balance between respecting an individual's chosen identity and enabling witnesses to give best evidence.
- **Panels should not force anyone to use gender-related terms that they object to or feel uncomfortable using.**

Relevant Definitions and Terminology (Section 3)

- Terms and language regarding transgender individuals and issues are evolving rapidly and terms may mean different things to different people.
- Definitions outlined in the guidance are common, but not universal, understandings of these terms.

Relevant Legislation (Section 4)

- The Equality Act 2010 safeguards people from discrimination on the basis of protected characteristics.
- Protected characteristics may conflict, and panels will need to manage this when it arises, as no protected characteristic takes precedent over any other.
- The protected characteristics of gender reassignment, belief, and sex are most relevant to this guidance.
- Having a belief in a gender identity which is separate to sex and holding a gender critical belief both fall under the protected characteristic of belief.
- Under the Gender Recognition Act 2004, protected information relating to someone's gender transition can be directed. However, **this information should not be directed unless it is relevant to Parole Board proceedings and to risk.**
- If a panel is considering directing protected information, please contact the Board's Practice Advisor.

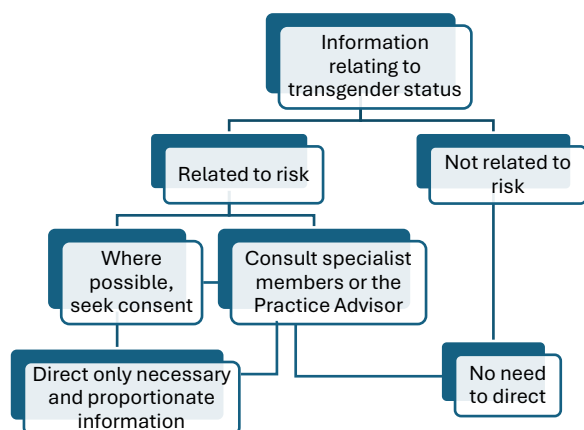
Practice Guidance (Section 5)

Overview (5.1-5.12)

- Prisoners who are transgender may be at any stage of transition when they are going through the parole process.
- It should be apparent that an individual is transgender during MCA stage or when preparing for an oral hearing.
- Panels may not have all information concerning identity, intentions, or stage of transition. Where this is the case, panels may wish to check how the individual wishes to be addressed.
- There should be no prejudice or different treatment accorded to a person because of their appearance, including dress.
- Panels should check with the prisoner whether family members, victims and others are aware of a change of name or identity and ask whether consent is given to disclose this in future Parole Board correspondence and documentation.

Writing Decisions and Directions (5.13-5.17)

- It should be possible to ascertain how the individual wishes to be referred to, including their preferred pronouns, and use them in documents and draft directions or reasons consistently.
- Avoid referring to transgender status in decisions, unless it relates to risk.
- If an individual's transgender status is not relevant, it should not form part of the decision-making process.
- It will only be necessary to direct information from a gender clinic if the panel determine that an individual's gender status itself is linked to risk. An individual's consent is preferable for the release of this medical information.



Conducting Hearings (5.18-5.29)

During hearings, Parole Board panels are advised to balance the proper respect for a trans person's identity (prisoner or witness) with the need to obtain best evidence. Where information relating to transgender status become relevant, it should be handled with sensitivity.

To avoid unfair treatment or adversely affecting quality of evidence, **unless seen as directly relating to the assessment of risk, panels are advised to avoid:**

- Questioning the prisoner's choice in relation to gender identity or the implications of that choice
- Referring to, asking, or speculating about physical anatomy or medical procedures
- Enquiring about sexual interests, intentions in relation to transitioning, or onset of gender dysphoria

Panels should further **avoid under any circumstances:**

- Enforcing gender-related terms on anybody who objects to it
- Defining another person's gender or experience
- Challenging the view that someone's sex at birth was wrong

Panels will be concerned to separate issues of personality disorder, mental illness, self-harm, substance abuse, and poor emotional regulation from gender dysphoria, and explore those that relate to risk assessment and management. This may be complex, but advice can be sought from experienced colleagues or nominated specialist members.

Panels should consider how report writers describe the association (or lack of association) between the prisoner's gender identity and their risk of harm.

Probation should include any additional elements required for transgender individuals in their risk management plans.

Victim Observer Requests (5.30-5.33)

Where a victim has requested to observe a hearing, it would be appropriate to check whether they are aware of the prisoner's transgender status, and whether the prisoner has a preference as to whether they are referred to as the name at time of sentence, or their current name. **Panels should be mindful of balancing the preferences or the prisoner, and the victim observer request.**

Parole Board Decision Summaries (PBDS) (5.34-5.38)

The starting point for PBDS is to issue them under the name at the time of sentence (which is public record). Gender neutral terms should be used throughout.

In some cases, it may be appropriate to refer to the prisoner's current name in the PBDS, with their former name in brackets. Where panels are unsure, please contact the Board's Practice Advisor.

1. **Purpose of this guidance**

1.1 The purpose of this guidance is to:

- Provide practical guidance for Parole Board members ('members')² when undertaking parole reviews of prisoners who are transgender
- Help ensure that members treat all people fairly when undertaking a parole review
- Provide a definition of relevant terms
- Signpost to relevant legislation
- Signpost to key aspects of the HM Prison and Probation Service (HMPPS) Policy Framework ([In the Care and Management of Individuals who are Transgender](#))³

2. **Key Messages**

2.1 The Parole Board acknowledges that not all people will agree with the terms used in this guidance, however, the choice has been made to use them as they are the most widely used and are generally acceptable.

2.2 Where possible we have aligned this guidance with the [Equal Treatment Bench Book](#)⁴, including the terminology used.

2.3 The key messages conveyed in this guidance are:

- The following protected characteristics appear to be the most relevant to this guidance: gender reassignment; belief; and sex. Please see paragraphs [4.8 to 4.16](#) for more information
- A person's transgender status will only become relevant if it is related to risk. Please see paragraphs [5.24 to 5.26](#) for more information
- If a person's transgender status is not relevant, it should not form part of the decision-making process
- In the parole review, it should be possible to work on the basis of a person's chosen gender identity and their preferred name/pronouns (he/she or they), regardless of whether they have obtained legal recognition of their sex/gender by way of a Gender Recognition Certificate
- Members will need to ensure there is balance between respecting an individual's chosen gender identity and enabling witnesses to give their best evidence
- Members should not force participants and/or witnesses to use gender related terms that they object to or feel uncomfortable using

² Please note this guidance refers to 'members' and to 'panels'. Parole Board panels include one or more members at Member Case Assessment, oral hearing, and when constituting a panel for the purposes of making a decision on the papers in accordance with rule 21 Board Rules 2019 (as amended). Please refer to rule 2 and rule 5 of the Parole Board Rules 2019 (as amended) for more information.

³ Please note this Policy Framework (at the time of writing) is currently under review. The hyperlink provided links to the most up to date version.

⁴ The Equal Treatment Bench Book is a key resource used by the judiciary of England and Wales, on the subject of equal treatment.

- Members should use the prisoner's current name in any decision letter. They should also add a line recording the name under which the prisoner was sentenced or add it in parenthesis: "(formerly known as...)". Please refer to paragraphs [5.34 to 5.38](#) for the position on Parole Board Decision Summaries (PBDS)

3. **Relevant Definitions and Terminology**

- 3.1 Terms and language regarding transgender individuals and transgender issues are evolving rapidly and many terms may mean different things to different people. The definitions outlined in the table below are common, but not universal, understandings of these terms.
- 3.2 Where relevant, many individuals will find it acceptable to be described as a "trans person" or a "transgender person". Despite its use in current legislation, the term "transsexual" is generally considered to be out of date, and it is offensive to many trans people, as is the use of "transgender" as a noun (e.g., "he is a transgender"). We recommend members avoid these terms.
- 3.3 Members may also come across the shorthand "FtM" and "MtF" for female-to-male and male-to-female transgender status, but these terms are also widely regarded as disrespectful. We recommend members avoid these terms.
- 3.4 Relevant definitions⁵:

Acquired gender	The law uses the phrase "acquired gender" to refer to the gender in which a person is living, or where a person's gender has been changed by law. A person's acquired gender is different to their sex at birth. Not all transgender people agree with the term acquired gender, this is because it implies that the true gender has been acquired following reassignment rather than being true before the person had the confidence or resources to transition. The term that has been used throughout this guidance is "the gender the person identifies with".
Affirmed gender	The term used to describe a person's gender after they have transitioned. This is generally preferred by transgender people to the term "acquired gender" as it affirms the gender that the person identifies with.
Cisgender	The term "cisgender" or "cis" is sometimes used to describe people who are not transgender and have a gender identity that matches their sex at birth.
Deadnaming	A term used where a trans person, in the course of transitioning, or having transitioned, is called by their birth name, or when their birth name is otherwise referred to, instead of their chosen name.

⁵ Please note that some of these definitions have been taken from the [Equal Treatment Bench Book](#), which can be a useful source of information.

Due regard	Having due regard means consciously thinking about the three limbs of the Public Sector Equality Duty (as contained in the Equality Act 2010).
Gender	A social construction relating to behaviours and attributes based on labels of masculinity and femininity. Gender identity is a personal, internal perception of oneself and so the gender category someone identifies with may not match their sex at birth. ⁶
Gender confirmation	An alternative term for gender reassignment, which some people may prefer to use.
Gender critical	A phrase which, broadly speaking, refers to a belief that sex is fundamentally immutable and binary. People who are gender critical do not believe that a person can change their sex. Gender critical beliefs are protected beliefs ⁷ , even if they might offend or upset people.
Gender Clinics	Gender clinics are a specialist centres that offer a range of support to those who are changing things related to their gender. Gender clinics are also known as Gender Identity Clinics (GICs) or Gender Dysphoria Clinics (GDCs).
Gender dysphoria	Where a person experiences discomfort or distress because there is a mismatch between their sex at birth and their gender identity.
Gender-fluid	This refers to a gender identity which varies over time.
Gender identity	A person's sense of self as a man, woman, non-binary person or other sense of gender. A person's gender identity typically follows their sex at birth (based on physical attributes), but this is not always the case.
Gender reassignment	One of the protected characteristics listed in the Equality Act 2010. A person is undergoing gender reassignment if they are, <i>"Proposing to undergo, is undergoing or has undergone a process (or part of a process) for the purpose of reassigning the person's sex by changing physiological or other attributes of sex"</i> ⁸ . This does not require any medical assessment or treatment.
Gender Recognition Certificate (GRC)	A certificate issued under the Gender Recognition Act which enables someone to be legally recognised in their acquired gender for some legal purposes. It also protects them against discrimination on the basis of gender reassignment. It does not change an individual's legally recognised sex for the purposes of the Equality Act 2010.
Intersex (or variant sex characteristics)	A person who has both male and female sex characteristics, including genitalia, hormones, chromosomes, and reproductive organs. Intersex people are born with sex characteristics that do not fit typical binary notions of male or female bodies. Being intersex is a naturally occurring variation in humans. In the United Kingdom (UK), intersex babies have to be registered as either male or female.

⁶ Office for National Statistics: [What is the difference between sex and gender?](#) (2019).

⁷ *Forstater v CGD Europe and others* UKEAT/0105/20; [2021] IRLR 706.

⁸ Section 7 Equality Act 2010.

	Intersex characteristics are not always apparent at birth and may appear later, for example during puberty.
LGBT+	Trans people, lesbian, gay and bisexual people are often referred to collectively as "LGBT". Many research papers also look collectively into issues of discrimination against these groups. The term "LGBT" is sometimes extended by adding "Q" (queer or questioning), "A" (asexual), "I" (intersex) or more generically, simply a "+".
Misgendering	You misgender someone when you refer to them using a word, especially a pronoun or a form of address, that does not correctly reflect the gender with which they identify.
Non-binary person	Someone who does not subscribe to the customary binary approach to gender, and who may regard themselves as neither male nor female, or both male and female, or take another approach to gender entirely. Non-binary individuals may wish to be identified using they/them pronouns. Identifying as non-binary is not protected under the Equality Act 2010, but members should try to accommodate preferred pronouns where appropriate.
Pronouns	For example, she/her, he/him, they/them.
Sex	One of the protected characteristics listed in the Equality Act 2010. This is defined in the Equality Act as reference to a man ("male of any age") or a woman ("female of any age"). The Supreme Court of the United Kingdom have ruled ⁹ that this means biological sex. This is sometimes also called "birth sex" or "sex registered at birth". We have used "sex at birth".
Sexual orientation	This includes, for example, lesbian, gay man/woman, bisexual person and heterosexual person.
Transgender (or trans) person	A broad term referring to anyone who identifies with a gender which is different to their sex at birth. Sometimes also referred to as gender diverse.
Transgender man	A transgender man is a person whose sex at birth was female but has a male gender identity.
Transgender woman	A transgender woman is a person whose sex at birth was male but has a female gender identity.
Transition	Where a person has decided to live permanently in line with their gender identification, the process of gender reassignment is usually called "transitioning", i.e., transitioning from one gender to another. Transitioning is partly a social process, including change of name. It does not necessarily entail any medical process, though for some people it may also include hormone treatment and gender/sex reassignment/affirmation surgery.

4. **Relevant Legislation**

European Convention on Human Rights (ECHR)

⁹ See [For the Women Scotland \(Ltd\) v the Scottish Ministers \[2025\] UKSC 16](#)

- 4.1 Article 8 of the ECHR protects the right to private life, family life, home and correspondence. This encompasses the right to self-determination, to define your identity, and to live as yourself. Private life has been stated by the European Court of Human Rights to encompass physical and psychological integrity; physical, personal and social identity; gender identification; name; sexual life and sexual orientation; personal autonomy and lifestyle.
- 4.2 Interference with any of the Article 8 rights must be **lawful, necessary** and **proportionate** in order to:
- Protect national security
 - Protect public safety
 - Protect the economy
 - Protect health or morals
 - Prevent disorder or crime, or
 - Protect the rights and freedoms of other people
- 4.3 Action is proportionate when it is appropriate and no more than necessary to address the problem concerned.
- 4.4 Article 14 of the ECHR requires that all rights and freedoms set out in the Convention must be protected and applied without discrimination. This means not being treated less favourably than another person in a similar situation when this treatment cannot be objectively and reasonably justified. For example, a prisoner at a parole hearing who is misgendered or otherwise feels procedures or decisions have been skewed by gender issues, may feel discriminated against by the Parole Board panel ('panel').

Equality Act 2010

- 4.5 The Equality Act 2010 aims to safeguard people from discrimination on the basis of the following characteristics (known as protected characteristics): age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.¹⁰ It is unlawful to discriminate against someone on the grounds of these protected characteristics.
- 4.6 At times, protected characteristics may come into conflict and members will need to manage that conflict when it arises. No one of these characteristics take automatic precedence over any other. This guidance is about enabling the Parole Board to proceed fairly while respecting those rights and managing that conflict in a way that respects all of the protected characteristics as far as it is possible to do so. In some cases, panels may wish to (depending on the individual circumstances of the conflict) refer to individuals by their names or by gender-neutral pronouns, rather than gendered pronouns. The Board's Practice Advisor can be contacted if members need advice.

¹⁰ Please refer to the Parole Board Guidance on Protected Characteristics for further information on the Equality Act 2010.

- 4.7 The following protected characteristics appear to be the most relevant to this guidance.

Gender reassignment (section 7 of the Equality Act 2010)

- 4.8 Gender reassignment relates to any person who is undergoing, proposing to undergo or has undergone a process (or part of a process) for the purpose of reassigning their sex by changing physiological or other attributes of sex. This definition has a broad scope under the Equality Act 2010, as it refers to a personal process of moving away from the sex at birth to the preferred gender, rather than to a medical process.
- 4.9 There is no need for the person to be under medical supervision or have a GRC.
- 4.10 Section 7 of the Equality Act 2010 refers to a person who has protection under the protected characteristic as a “transsexual person”. Many consider this term outdated and it is offensive to many trans people. We recommend the terms “trans person” or “transgender person”.
- 4.11 It should be borne in mind that not all people who are transgender will meet the criteria under section 7 of the Equality Act 2010. This is because:
- Being transgender does not automatically qualify someone for protection under the protected characteristic of gender reassignment
 - Not all transgender individuals will have the desire to take legal or medical steps
 - Even if a transgender individual does not qualify for the protected characteristic of gender reassignment, they may have other protected characteristics which they do qualify for

Belief (section 10 Equality Act 2010)

- 4.12 “Belief” means any religious or philosophical belief or lack of belief. A philosophical belief must satisfy various criteria, including that it must be genuinely held; be a belief as to a weighty and substantial aspect of human life and behaviour; attain a certain level of cogency, seriousness, cohesion and importance; be worthy of respect in a democratic society, compatible with human dignity and not conflict with the fundamental rights of others.
- 4.13 Having a belief in a gender identity which is separate to sex and holding a gender critical belief both fall under section 10 Equality Act 2010.

Sex (section 11 Equality Act 2010)

- 4.14 The reference to this protected characteristic is a reference to a man or a woman¹¹. A person must not be discriminated against because: they are (or are not) a particular sex; someone thinks a person is of a particular sex; they are connected to someone of a particular sex.
- 4.15 Section 149 Equality Act 2010 created a Public Sector Equality Duty on public authorities to have due regard to the need to eliminate discrimination, harassment, victimisation and any other prohibited conduct; and to advance equality of opportunity and foster good relations between persons who have a relevant protected characteristic and those who do not share it.
- 4.16 Please refer to the Guidance on Protected Characteristics, which includes information on the main types of conduct prohibited under the Equality Act 2010, such as: direct discrimination; indirect discrimination; failure to make reasonable adjustments; harassment; and victimisation.

Gender Recognition Act 2004

- 4.17 The Gender Recognition Act 2004 (GRA) applies to those who have a desire to change their legal sex on their birth certificates so that they are legally to be treated as being of their “acquired” gender in the wording of the Act, and to do so they must satisfy a mix of legal and medical criteria.
- 4.18 The case of *Goodwin v UK* (2002) precipitated the GRA and creation of the UK system of gender recognition panels and certification. The Act provides a mechanism to allow people to obtain legal confirmation of their acquired gender in a GRC which is used to create a new birth certificate. The GRC provides legal proof of gender change. To obtain certification, a person must have reached age 18, been diagnosed with gender dysphoria, lived in the gender they identify with in the UK for at least two years, and have an intention to live in that gender for life. The process is lengthy and not a necessity for day-to-day living. It also requires divorce, dissolution or annulment of any existing marriage or civil partnership.
- 4.19 There are some limits on the effects of a GRC. This is because the courts have held that it does not change the protected characteristic of sex within the meaning of the Equality Act 2010. Possession of a GRC does not confer the automatic right to access spaces, services, and protections that a person would not be able to access without a GRC. If this issue arises in a case you are dealing with, please contact the Practice Advisor.
- 4.20 Where a person has applied for, or obtained a GRC, section 22 of the GRA makes it an offence for someone who has obtained “protected information” in an official

¹¹ *The Supreme Court of the United Kingdom ruled that the term “sex” refers to a person’s biological sex; references to “women” are references to biological females and references to “men” are references to biological males. See [For the Women Scotland \(Ltd\) v the Scottish Ministers \[2025\] UKSC 16](#)*

capacity to disclose that information to any other person. Protected information is information about a person's application for legal recognition of their "acquired gender" (as gender identity is referred to in the GRA) or, if they have legal recognition, their trans history. The exemptions to section 22, where it is not an offence to disclose protected information, are included in Annex A. The most relevant exemptions are:

- 22(4)(b) if the person has consented to the disclosure
- 22(4)(d) to comply with a Parole Board direction
- 22(4)(e) for the purposes of Parole Board proceedings, as they are judicial in nature
- 22(4)(j) if otherwise authorised by law, such as in Parole Board summaries, or for public hearings

4.21 Please note that although there are exemptions that apply to Parole Board proceedings, protected information should not be directed unless it is relevant to the Parole Board proceedings and is relevant to risk.¹² If a member is considering directing protected information, please contact the Board's Practice Advisor first for advice.

4.22 It may be necessary to briefly refer to protected information in a decision, but this should be done sensitively and in line with this guidance.

Data Protection Act 2018

4.23 The Data Protection Act 2018 empowers people to take control of their data and resist inappropriate requests for personal information. It parallels but does not fully equate to the European Union's General Data Protection Regulation (GDPR) which was also enacted in May 2018. The Regulation and the 2018 Act grant rights to be informed and have access to recorded data with entitlements to rectify, erase or restrict processing of relevant information.

4.24 Details relating to a prisoner's gender transition or transgender status are likely to be sensitive personal data as defined in legislation. However, there are exemptions under the Data Protection Act 2018 that allow for the processing of sensitive personal data for the purpose of Parole Board proceedings, even without consent.

5. Practice Guidance for Members

Background and General Overview

5.1 Prisoners who are transgender may be at any stage of transition when they are going through the parole process. Acknowledgement of transgender identity does not depend on physical interventions having been undertaken or on any stage of transition having been achieved. Although individuals may have

¹² Please see [paragraphs 5.24-5.26](#) for more information.

expressed a consistent desire to live permanently in the gender with which they identify and have been formally recognised by the prison (and probation) authorities as being transgender, they may not have had interventions such as hormone treatment or surgery and may not wish to do so.

- 5.2 During childhood, adolescence and/or adulthood, some individuals experience gender dysphoria: a sense of discomfort or distress because there is a mismatch between the individual's sex at birth and their gender identity.
- 5.3 Some individuals may decide that gender dysphoria is best alleviated by changing their identity and appearance to live in a different gender. The experience of gender dysphoria can be confusing and psychologically difficult without proper support. The decision to change gender is a profound one: relationships with family and friends may be affected; there are many practical and legal consequences; medical treatments, if taken, can have unpleasant side-effects.
- 5.4 The process of changing gender is referred to as "transitioning" as the person moves from their sex at birth to what is referred to in law as their "acquired gender". Medical, or surgical, interventions do not have to have been completed for a gender to be acquired or affirmed, nor does a diagnosis of gender dysphoria need to have been made. Prison establishments are required to ensure that individuals who identify as transgender have access to the same quality of care (including assessment, counselling, pre- and post-surgical care and continued access to hormone treatment) that they would expect to receive from the NHS if they had not been sent to prison or youth custody.
- 5.5 During the Member Case Assessment (MCA)¹³ process or in preparing for an oral hearing, members may recognise prisoners who are transgender if they are shown to have elected to change their legal name or are noted in the dossier as pursuing legal recognition of the gender they identify with. However, for a prisoner who has already achieved a GRC¹⁴, records should already have been updated to reflect the legal name. If a prisoner has legal protection under the Gender Recognition Act 2004 but has provided written consent for disclosure of previous gender, original names may remain on the record. However, a prisoner's gender history may still be in the dossier without their consent, as there are other exemptions that may apply. For example, a prisoner who has a GRC and the legal gender of female may have a conviction of rape which is on the record. There may also be a victim personal statement (VPS) or previous decisions that disclose the former gender.
- 5.6 Members may also be made aware of transgender status by reports in the dossier indicating that the prisoner is undergoing transition or referring to the person in a name inconsistent with sex at birth. The Parole Board may not have

¹³ Every case referred to the Parole Board is required to go through the MCA process. MCA has been described as a form of 'triage' because each case, at the earliest opportunity (the point of referral), is considered by an accredited MCA member who determines whether the case can be concluded on the papers or sets out additional steps that are needed for the matter to be determined fairly and swiftly. Please refer to the MCA Guidance for more information on the process.

¹⁴ According to the [HMPPS Offender Equalities Annual Report for 2023/24](#), there were 10 prisoners known to have a GRC as of 31st March 2024. Whether or not someone has a GRC does not speak to the voracity of the person's gender identity.

the full information concerning identity, intentions, or stage of transition. Where this is the case, members may wish to check how the individual wishes to be referred to / addressed (please see [paragraph 5.20](#)).

- 5.7 If possible and appropriate, members can check with the prisoner whether family members, victims and others are aware of a change of name or identity and whether consent is given to use or disclose an acquired identity in future Parole Board correspondence and documentation. Please see paragraphs [5.34-5.38](#) below for the position on PBDs.
- 5.8 It should be possible to work on the basis of a person's chosen gender identity and their preferred name/pronouns, regardless of whether they have obtained legal recognition of their sex/gender by way of a GRC. However, there will be situations where it is clearly inappropriate. For example, a victim of domestic abuse, sexual violence or assault by a transgender person is likely to describe the perpetrator in accordance with the victim's experience and perception of the events.
- 5.9 Members will need to ensure there is balance between respecting an individual's chosen gender identity and enabling witnesses to give their best evidence.
- 5.10 Members should not force participants and/or witnesses to use gender related terms that they object to or feel uncomfortable using.
- 5.11 There should be no prejudice or different treatment accorded to a person because of their appearance, including dress (unless it is clear affront to public decency, or disrespectful of the judicial process).
- 5.12 Cases may require careful case management; if members need case-specific advice, please contact the Board's Practice Advisor.

Writing Decisions and Directions

- 5.13 It is usually possible to work on the basis of a person's chosen identity or pronouns.¹⁵ Therefore, in most cases it should be possible to:
 - Ascertain how the individual wishes to be referred to, including their preferred pronouns, in documents in the first instance, and draft directions or reasons in the appropriate form of address by using "Ms" for trans women, "Mr" for trans men, or "Mx" for non-binary individuals
 - Where the case continues to be logged and tracked in the prisoner's original name and prison number, use a convention in document headings and filenames such as Peter Jackson/Penny Jones or Peter Jackson aka Penny Jones
 - Consistently use pronouns appropriate to the acquired gender and double-check documents for drafting errors

¹⁵ If at any point a Parole Board member or member of the secretariat feels uncomfortable referring to the prisoner in their chosen identity, they should contact the Board's Practice Advisor.

- Avoid referring to transgender status in decisions, unless necessary because it relates to risk¹⁶
- 5.14 Members should not use inverted commas (for example, “Ms Smith”) as to do so could be taken to imply scepticism, prejudice or discourtesy concerning transgender status.
- 5.15 A person’s transgender status will only become relevant if it is related to risk. If a person’s transgender status is not relevant, it should not form part of the decision-making process.
- 5.16 References to or directions focussing on a person’s transgender status, should only be made if the status is relevant to risk, or the management of risk. This includes risk to the prisoner. The directions should be necessary and proportionate and focus on the purpose of the direction.
- 5.17 It will be only necessary to direct information from a gender clinic if a member determines that a person’s gender status itself is linked to risk.¹⁷ An individual’s consent is preferable for the release of this medical information. If refused, a direction can enable protected information to be processed without consent if needed under GRA 2004 s22(4)(c).

Conducting Hearings

- 5.18 Concerns for the safe management of prisoners who are transgender may lead to them being located in the Vulnerable Prisoner Unit (VPU) of the prison. Members (particularly oral hearing chairs) will be attentive to implications for staging the hearing (including arrangements the establishment will make in getting the prisoner to and from the hearing room). The panel will also need to take account in its decision-making of any limitations on access to employment, visits or offending behaviour interventions caused by location on a VPU.
- 5.19 It is usually possible to work on the basis of a person’s chosen identity or pronouns. Accordingly, when addressing the prisoner at a hearing, it should be possible to follow the points outlined in paragraph [5.13](#) above.
- 5.20 The panel may also take the opportunity to check with the prisoner what name and term of address is preferred. This may involve:
- Confirming at the appropriate point during introductions, how the prisoner wishes to be addressed in the hearing, then using the chosen name and gender-appropriate form of address
 - Being prepared for the prisoner to possibly look and sound different to any preconceptions of how a person of that gender would usually appear

¹⁶ Please see [paragraphs 5.24-5.26](#) for more information.

¹⁷ Please see [paragraphs 5.24-5.26](#) for more information.

- Asking sensitively how the prisoner would prefer to be called formally in Parole Board directions (such as panel chair directions), decisions or PBDs

5.21 During hearings, panels are advised to:

- Balance the proper respect for a trans person's identity (prisoner or witness) with the need to obtain best evidence
- Not enforce any particular gender-related terminology on somebody who objects to it¹⁸
- Show no negative reaction to the prisoner's choice in relation to gender
- Avoid questioning the prisoner's choice in relation to gender identity or the implications of that choice - unless seen to be directly related to the assessment of risk
- Embed the prisoner's answers and preferences clearly and appropriately in the panel's reasons to guide colleagues and officials in future
- Avoid pathologizing expressions that can undermine the individual's experience, such as "suffering from", "facing" or "battling" gender dysphoria. Instead, use more validating expressions, such as "experiences" gender dysphoria
- Avoid phrases that could imply that the prisoner's experience is not genuine, such as "wishes to be seen as" or "prefers to be called"
- Use the adjective "transgender" rather than "transgendered", as the latter suggests being subject to an externally imposed process

5.22 To avoid unfair treatment and adversely affecting the quality of evidence the prisoner gives, panels are advised to avoid:

- Challenging the prisoner's view that their sex at birth was wrong for them
- Defining the prisoner's gender or experience for them
- Asking directly whether the prisoner considers themselves male or female or to what gender they assign themselves as though binary systems must apply to gender
- Referring to, asking, or speculating about physical anatomy or medical procedures – unless seen to be directly related to the assessment of risk of serious harm
- Enquiring about sexual interests, intentions in relation to transitioning, or onset of gender dysphoria – unless seen to be directly related to the assessment of risk of serious harm

5.23 It is usually inappropriate to enquire about someone's medical history, including their anatomical status, unless it is relevant to the case. If it becomes relevant, the issue should be handled with sensitivity.

5.24 **Panels will only need to consider transgender status if there is a link to risk.**

¹⁸ If at any point a Parole Board member or member of the secretariat feels uncomfortable referring to the prisoner in their chosen identity they should contact the Board's Practice Advisor.

5.25 It is suggested that panels consider the way report writers (such as the Community Offender Manager (COM), Prison Offender Manager¹⁹ (POM), prison/prisoner commissioned psychologist, etc.) describe the association (or lack of association) of the gender identity of the individual and their risk of harm towards others. For example, a connection should be identified by a psychologist and considered as part of the formulation of the risk of serious harm to others. The British Psychological Society have set guidelines that inform practice in these areas, particularly in relation to forensic risk assessments and what can be expected from psychologist witnesses.

5.26 Where there is an association, for example:

- Evidence may indicate that the risk of serious harm significantly increases or significantly decreases when the prisoner's emotional state is heightened within the process of transition, or in the acquired gender
- There may be issues with feeling stressed and overwhelmed, particularly if there are tensions with society, family or friends
- A person's trans journey may be a liberating experience which acts as a protective factor

Panels may wish to explore an association in some depth. In these circumstances, the focus will be on the risk factors and protective factors, and the circumstances in which these factors might return, decrease or increase, rather than the prisoner's transgender identity.

5.27 Transgender prisoners may experience personality disorder, mental illness, self-harm, substance abuse and poor emotional regulation. Panels will be concerned to separate these issues from gender dysphoria and explore those that relate to risk assessment and management. This process may be complex, and the issues may be difficult to separate. Panels can seek the advice of co-panellists, experienced colleagues, or specialist members of the Parole Board who have been nominated to offer guidance.²⁰

5.28 Panels can expect that, in proposing risk management plans, the probation service should take account of any additional elements required by those who are transgender. For example: whether exclusion zones need adjustment for attendance at medical appointments or whether facilities and interventions are gender specific.

5.29 A Local Case Board will be convened alongside a Care and Management Plan for transgender individuals who are preparing for a parole hearing or Release on Temporary Licence (ROTL) arrangements. Please see [section 6](#) below for more details.

¹⁹ If the POM/COM report does not include input from psychology services, MAPPA, or any reference to a complex case review, panels may wish to reassure themselves that risk has been fully explored.

²⁰ A list of specialist members can be found just above the duty member rota on SharePoint.

Victim Observer Requests

- 5.30 Where a victim has requested to observe the hearing, it would be appropriate to check or consider whether:
- The victim is aware of the prisoner's transgender status. A victim observer application²¹ must clearly state if the applicant is aware of a change in the prisoner's name or identity.²² If the application form does not contain a reference to the prisoner's transgender status, it should be assumed that the victim does not know
 - The prisoner has a preference as to whether they are referred to under their name at the time of sentence or their current name. It may be distressing for the prisoner to be referred to in a former name or gender that they do not identify with. Conversely, they may not wish to be referred to in their current name. The prisoner's transgender status may not be known widely (or at all), and they may wish to keep it that way
- 5.31 Where a victim is observing and the prisoner's preference is to be referred to in their current name, this should be possible to do so.
- 5.32 Where the prisoner does not want the victim to be aware of their transgender status or where there is uncertainty about how to balance the preferences of the prisoner with the victim observer request, the Parole Board's Practice Advisor, can be contacted for case specific advice.
- 5.33 For more information on victim observers, please refer to Annex A of the Victims Guidance. For information on observer requests more generally, please refer to the Observers Member Guidance.

Parole Board Decision Summaries

- 5.34 If an application is made for a PBDS²³ under the Parole Board Rules 2019 (as amended)²⁴, consideration may need to be given as to whether there should be reference to transgender status. If the author of the PBDS deems that it is necessary to make reference to a prisoner's transgender status, they should follow the steps set out below. If they need any further advice on how to proceed, they should contact the Board's Practice Advisor, for advice.
- 5.35 **The starting point for PBDS's is to issue them under the prisoner's name at the time of sentence (which is a matter of public record).**

²¹ Via a Stakeholder Response Form.

²² Section 5 of Annex A of the Victims Guidance sets out the information that should be included in a victim observer application.

²³ A Parole Board decision summary (PBDS) is a public facing document, which is a summary of the Board's decision. There is a requirement under the Parole Board Rules 2019 (as amended) for the provision of such a summary to any person who requests it (such as, the press or victim(s)), except in exceptional circumstances, where the Parole Board Chair considers that a PBDS should not be produced for disclosure.

²⁴ The Parole Board Rules 2019 has been amended on several occasions, most recently in 2024.

5.36 **Where the prisoner is transgender, gender neutral terms should be used throughout as standard.** It would be appropriate to check or consider the following:

- Whether the victim and/or requestor is aware of the prisoner's transgender status. Where the requestor is the victim, this is checked via the Victim Liaison Officer.²⁵ If that proforma is not filled in, or if the requestor is not a victim, it should be assumed that they do not know unless there is any information which indicates the contrary
- Whether the prisoner has a preference as to whether the PBDS is issued under their name at the time of sentence or their current name. It may be distressing for the prisoner to be referred to in a former name or gender that they do not identify with. Conversely, they may not wish to be referred to in their current name. The prisoner's transgender status may not be known widely (or at all), and they may wish to keep it that way. Representatives have the opportunity to make submissions about the contents of summaries during the main Parole Board process
- Some victims may have strong feelings on the name and gender pronouns that are used, or may be distressed by use of the prisoner's current name. This may be due to them not being aware that the prisoner is transgender or for other reasons
- It may be difficult for a member of the public to understand the PBDS if they cannot draw a link between the sentence (under a different name) and the prisoner's current name. The name at the time of sentence is a matter of public record and helps a link to be drawn

5.37 In some cases, it may be appropriate to refer to the prisoner's current name in the summary with their former name in brackets, next to it. For example, "[insert current name] (formerly known as [insert name the prisoner was convicted under])". The remainder of the PBDS should use gender neutral terms.

5.38 Where there is uncertainty around balancing the preferences of the prisoner with those of the requestor (such as the victim), members are advised to contact the Board's Practice Advisor for case-specific advice.

6. **HMPPS Practice**

6.1 As set out in the [HMPPS Offender Equalities Annual Report \(2023/2024\)](#), there were 295 transgender prisoners in the 2024 data collection (an increase on the figure of 268 recorded in 2023). Of those, 245 transgender prisoners (83%) reported their legal gender²⁶ as male, and 50 (17%) as female.

6.2 The Report also includes the following from the 2024 data collection:

²⁵ Using the Parole Board Decision Summary Proforma which is only for Victim Liaison Officers to complete.

²⁶ Legal gender is the gender recorded on a person's birth certificate, or on their Gender Recognition Certificate where they have acquired one.

- 10 prisoners are known to have a GRC (down from 13 on 31st March 2023)
- Prisoners who have a full GRC are excluded from the analysis of the report
- 244 transgender prisoners (83%) were in the male estate and 51 (17%) in the female estate
- 84 of the 123 public and private prisons (68%) said they had one or more transgender prisoner
- Of the 295 transgender prisoners:
 - 51 were in female prisons (17%). Of these, 48 self-identified as transgender male. The remainder self-identified as transgender female, non-binary, in a different way²⁷ or did not provide a response
 - 244 were in male prisons (83%). Of these, 225 self-identified as transgender female. The remainder self-identified as transgender male, non-binary, in a different way, or did not provide a response
- 31 of the 295 transgender prisoners (11%) self-reported they were from an ethnic minority (excluding white ethnic) background and 257 were from a white (including white ethnic) background (89%)
- 74% self-declared transgender prisoners were aged between 20-49 years
- Based on the exercise, there were 3.4 transgender prisoners reported per 1,000 prisoners in custody on 31st March 2024²⁸

6.3 Please refer to the [HMPPS Offender Equalities Annual Report \(2023/2024\)](#) for more information.

6.4 The relevant HMPPS Policy Framework can be found here - [The Care and Management of Individuals who are Transgender](#)²⁹ (the Policy Framework).

6.5 Key points from the Policy Framework and Operational Guidance include:

- All individuals in the care of HMPPS who disclose their transgender status must have an initial Local Case Board which aims to address their care and their management. Where risks are identified, an individual's case may be escalated to a Complex Case Board (CCB).
- Allocation must be made according to legal gender, with separate accommodation in the women's estate (e.g., E Wing at HMP/YOI Downview) being available for transgender women with GRCs who have birth genitalia and/or any sexual or violent offence conviction or current charge where a Complex Case Board deems this to be appropriate.
- There is a presumption that transgender women (including those with GRCs) with birth genitalia and/or any sexual or violent offence conviction or current charge should not be held in the general women's estate, with

²⁷ According to the report, an additional field is included in the collection form for self-described gender identity. This is to give transgender individuals an opportunity to add any extra self-identifying information they feel is important.

²⁸ In terms of general population data, approximately 0.5 % of the population (aged 16 and over) do not identify with their registered birth sex. See [Census 2021](#) for more information.

²⁹ Implemented on 31st October 2019 and re-issued on 14th November 2024. Please note this Policy Framework (at the time of writing) is currently under review. The hyperlink provided links to the most up to date version.

exemptions recommended by a CCB being referred to the HMPPS Director General Operations for consideration and the Secretary of State for Justice for a final decision. An agreed exemption³⁰ must be in place before any allocation to the general women's estate can occur.

- All adults, children and young people who declare they are transgender must be permitted to present and express themselves in the gender with which they identify (or in a gender-neutral way) and provided with access to the relevant facilities list. This must take into consideration that for prisoners and offenders in Approved Premises (AP), the establishment is their living space.
- In respecting an individual's gender identity and expression, this does not oblige the organisation to allocate them accordingly; it is one of many factors that may influence such decisions.
- Gender expression must comply with relevant dress codes, which are based on decency and which take into account any potential vulnerability of the individual. Where relevant, individuals remain subject to any requirement to wear prison issue clothing and must comply with the Incentives Policy Framework. Clothing, hair, make-up, prostheses and other accessories may be subject to risk, security and operational assessments which will be discussed at a local transgender case board. Agreement regarding these items should be sought via a Voluntary Agreement.
- Individuals who are transgender must be allowed to adopt a gender-appropriate or gender-neutral name and be addressed by others consistent with the gender with they identify, or as gender-neutral.
- For decisions on allocation for transgender male prisoners, a referral must be made to the CCB, who will consider all risk and safety factors.
- Any transgender woman with any sexual or violent conviction or current charge³¹ and/or who has birth genitalia should be referred to an Approved Premises (AP) in line with their sex registered at birth unless, by exception, an exemption has been recommended by a CCB and agreed by the HMPPS Director General and the Secretary of State for Justice.
- All other individuals required to reside in an AP must be allocated according to their legally recognised gender unless the Probation local case board determines that the case meets the criteria for a CCB.

³⁰ Exemptions to the general women's estate will only be valid for the transgender woman's current sentence.

³¹ See Annex D of the Policy Framework.

Annex A

Disclosure of Protected Information (section 22 Gender Recognition Act 2004)

Section 22 of the GRA 2004 states that:

- (1)** It is an offence for a person who has acquired protected information in an official capacity to disclose the information to any other person.
- (2)** Protected information means information which relates to a person who has made an application under section 1(1) and which –
 - (a) Concerns that application or any application by the person under section 5(2) or 6(1) or
 - (b) If the application under section 1(1) is granted, otherwise concerns the person's gender before it becomes the acquired gender.
- (3)** A person acquires protected information in an official capacity if the person acquires it –
 - (a) In connection with the person's functions as a member of the civil service (which includes prison and probation staff), a constable or the holder of any public office or in connection with the functions of a local or public authority or of a voluntary organisation.
 - (b) As an employer, or prospective employer, of the person to whom the information relates or as a person employed by such an employer or prospective employer
 - (c) In the course of, or otherwise in connection with, the conduct of business or the supply of professional services.

Exemptions to Disclosure within the Gender Recognition Act 2004

It is not an offence under section 22 (4) of the GRA 2004 to disclose protected information relating to a person if:

- (a) the information does not enable the person to be identified;
- (b) that person has agreed to the disclosure of the information;
- (c) the information is protected information by virtue of subsection (2)(b) and the person by whom the disclosure is made does not know or believe that a full gender recognition certificate has been issued;
- (d) the disclosure is in accordance with an order of a court or tribunal;
- (e) the disclosure is for the purpose of instituting, or otherwise for the purposes of, proceedings before a court or tribunal;
- (f) the disclosure is for the purpose of preventing or investigating crime;
- (g) the disclosure is made to the Registrar General for England and Wales, the Registrar General for Scotland or the Registrar General for Northern Ireland;
- (h) the disclosure is made for the purposes of the social security system or a pension scheme;

- (i) the disclosure is in accordance with an order made by the Secretary of State; or
- (j) the disclosure is in accordance with any provision of, or made by virtue of, an enactment other than this section (e.g. any other law)

Section 22(5) was added in October 2021 which allows disclosure where it is necessary for offender management purposes. Disclosure made using this exemption should be recorded, including the reason that the disclosure was necessary

(5) The Secretary of State may by order make provision prescribing circumstances in which the disclosure of protected information is not to constitute an offence under this section.

The Gender Recognition (Disclosure of Information) (England, Wales and Northern Ireland) (No. 2) Order 2005 (No. 916) provides that it is not an offence to disclose protected information:

- for the purpose of obtaining legal advice
- for certain religious purposes
- for medical purposes to a health professional where the person making the disclosure reasonably believes that the subject has given consent to the disclosure or cannot give such consent; or
- for certain reasons related to insolvency.