

Submission to the Women & Equalities Select Committee GRA Inquiry

Bent Bars Project

About the Bent Bars Project

The Bent Bars Project is a volunteer-run pen pal scheme supporting LGBTQ+ prisoners in the UK. The project has been running since 2009 and has provided direct support to more than 750 LGBTQ+ prisoners in the UK, including many transgender prisoners.

Over the nearly 12 years that the project has been running, we have heard directly from many transgender prisoners about the issues they face in prison. Most trans prisoners who contact us do not have a GRC and repeatedly face immense barriers in acquiring a GRC, which we discuss below. We have supported trans people held in both the male and female estate. This includes trans women held in both men's and women's prisons, trans men held in women's prison and gender non-binary prisoners.

Trans and gender non-conforming people face high levels of discrimination, inequality and social exclusion, which often results in targeted policing, criminalisation and imprisonment. In particular, trans people are disproportionately likely to experience poverty, unemployment, homelessness, violence and mental-ill health, factors which significantly increase the likelihood of criminalisation and imprisonment.

When in prison, trans and gender non-conforming people are often subject to increased isolation, harassment, violence and denial of health care. This is especially the case for trans people in poverty, trans people of colour, those with disabilities and those with little family or community support.

Wider Media Context

The Bent Bars Project feels compelled to respond to the consultation as we are concerned about both the exclusion and misrepresentation of prisoners' voices and experiences within many of the public debates about GRA reforms.

We have been especially concerned about widespread misconceptions in the media about trans prisoners and current trans prison policy in England and Wales. Much of the recent media coverage around trans prisoners has been characterised by sensationalist reporting, misleading claims, and decontextualised statistics. We are also concerned that groups who have no experience working with or supporting prisoners, have been misrepresenting prison issues in order to bolster anti-trans perspectives.

In order to counter some of this misinformation, the Bent Bars Project has produced a set of *Trans Prisoners Information Sheets* (available on our website or by request: bent.bars.project@gmail.com) which may be useful for the inquiry.

Written evidence submitted Bent Bars Project [GRA1050]

Our concerns about the Government Response to the GRA Consultation

We welcome the Government's decision to reduce the fees for applying for a GRC as we view the current fees as a significant economic barrier to acquiring a GRC. However, we are deeply disappointed by the Government's decision to maintain the other requirements, which we see as outdated and creating unnecessary barriers for trans legal recognition. In particular we are disappointed by the decision to retain the following:

- Requirements for a diagnosis of gender dysphoria
- Requirement of evidence of having live in one's acquired gender for two years
- Spousal consent provision

Trans people in prison are particularly disadvantaged by these requirements as it is difficult to meet the documentation requirements to evidence one's gender.

Gatekeeping and barriers for trans people in prison obtaining legal recognition

Due to gatekeeping and limited health care provision in prison, trans prisoners repeatedly tell us that they have difficulty obtaining a referral to gender specialists and gender clinics. As a result, many prisoners are denied the opportunity to be assessed for gender dysphoria, let alone obtain a diagnosis.

When providing evidence of their self-determined gender, trans people in prison often face a catch-22, where they are denied what they need to express their identity and then this is used against them to deny recognition of their identity. For example, trans prisoners regularly inform us that they are routinely denied access to gender-affirming health care, clothing and personal items. For those who are given access, particularly trans women held in the male prison estate, many are restricted to wearing gender affirming clothing within their cells and are prohibited from expressing themselves on the wider prison wings. Their inability to fully present in their self-determined gender is then used as evidence that they are not authentic or legitimate in their gender identity or expression.

Trans people are often subject to a presumption of disbelief around their identities, and this tends to be heightened for trans prisoners. This disbelief is especially acute for prisoners who come out as trans for the first time in prison. Such disbelief is often the result of dual stereotypes about trans people and about prisoners and fails to recognise the particular reasons why some LGBTQ+ people first 'come out' in prison. Because prisoners are locked in cells for extensive periods of time and are often required to reflect on their lives as part of rehabilitation programming, prison is sometimes the first significant opportunity that people have time and space to grapple with their identities and experiences. Some people in prison begin to more clearly identify their feelings around gender or sexuality or begin to reflect on how repression and denial of their identities was relevant to the path that led to their imprisonment. In our view, it is unfair and discriminatory to deny people the right to self-determine their gender just because they are in prison or first come out as trans in prison.

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We are also aware that the medical and legal authorities are reluctant to accept prison life as part of a person's 'real life test', in order to access medical care such as surgery or legal recognition via a GRC.

GRCs and location with the prison estate

Having GRC does not automatically determine what prison a person is held in, particularly if a prisoner first acquires a GRC whilst in prison. Current prison policy in England and Wales requires that a risk assessment be carried out before someone is permitted to move locations from the male to female estate or vice versa. Safeguarding measures are also a requirement regardless of where a person is held in the prison estate. For this reason, removing barriers to obtaining a GRC would not necessarily have a significant impact on placement decisions. However, removing barriers to obtaining a GRC would offer important protections to trans prisoners in other ways. The persistent problem of gatekeeping, disbelief and denial of access to gender affirming care and support are likely to be lessened for prisoners who have a GRC.

We are aware that there have been public concerns that male prisoners might pretend to be trans to access women's prisons. In our view such cases would be extremely rare and even if such cases arose, the Ministry of Justice policy robustly guards against this. The assumption, often circulated in the media, that a person can simply declare themselves to be trans and be immediately moved to a different prison is not consistent with current Ministry of Justice policy or practice. It also does not reflect the experiences of prisoners in contact with the Bent Bars Project. There are very few cases of trans people being moved from the male to female estate and vice versa. When it does happen, it usually takes considerable time before someone is moved.

For further information, please see our "Trans Prisoners Information Sheets" (available on our website bentbarsproject.org or by request: bent.bars.project@gmail.com).

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