

Written evidence submitted by UK Government to the Transgender Equality Inquiry

Introduction

The Government welcomes this inquiry into equality for transgender people, the first inquiry held by the newly-formed Women and Equalities Select Committee.

Over recent years, the UK has made great strides towards equality for transgender people, including the Gender Recognition Act 2004 which provided for people to change their legal gender; the Equality Act 2010 which provides protection from discrimination, harassment and victimisation on the grounds of a number of protected characteristics including gender reassignment; and the Marriage (Same Sex Couples) Act 2013 which means that a transgender person may gain a Gender Recognition Certificate without ending their marriage.

However, the Government knows that there is more to do and we are currently in the process of developing our future priorities for transgender equality. Transgender equality is a key area for this Government, and a priority for the Secretary of State for Education and Minister for Women and Equalities.

We look forward to the contribution that this timely inquiry will make to the debate on these important issues.

Role of the Government Equalities Office

The Government Equalities Office (GEO) co-ordinates activity across Government on transgender issues where other Government departments have responsibility for policies that directly affect transgender people, for example hate crime and gender recognition. GEO maintains legislative policy for the Equality Act 2010 and the relevant protected characteristic of gender reassignment enshrined in the Act and as such leads on transgender equality policy on behalf of Government.

Where cross-cutting issues require coordination across Government, GEO collates this on behalf of, but with contributions from, other Government departments. An example of this is the publication of the first-ever action plan for transgender equality, published in 2011 under the Coalition Government, that set out a framework for actions across Government to improve equality for transgender people and following consultation with the transgender sector.

GEO works across Government in order to influence and support other Government departments, bringing the voice of transgender people into Government policy-making. GEO seeks to help other Government departments understand the experience of transgender people so that policy can properly take into account the specific needs of transgender people. GEO also aims to facilitate dialogue between Government departments and transgender stakeholders so that stakeholders can directly access those responsible for the relevant policy. For example, GEO facilitates the engagement of other Government departments in the Parliamentary Forum on Gender Identity when relevant policy issues arise; for example, engaging the Department for Education when the impact of school policies on transgender students is being discussed. GEO also disseminates relevant information about Government policies, new initiatives and funding opportunities, and public consultations to transgender organisations and stakeholders.

In order to ensure we understand the needs of transgender people and fully understand any associated issues, GEO maintains a regular dialogue with a wide range of stakeholders. GEO meets regularly with transgender stakeholders to discuss key issues of concern and the possible solutions to resolve those issues. In addition, the GEO engages through sector-wide fora, which have representation from transgender organisations, to identify and clarify the key issues of concern. GEO has also recently funded the Consortium of LGBT Voluntary and Community Organisations (“the LGBT Consortium”) to deliver a series of consultative engagements events with LGB&T stakeholders on issues like mental health and media portrayal; and to provide capacity-building workshops for LGB&T organisations on issues like understanding Parliament and Parliamentary procedures and engaging with Government. GEO also provides funding for the Transgender Organisations Network, a representative forum run by the LGBT Consortium to facilitate and foster the development of transgender civil society’s capacity to engage on issues of concern and to deliver as a minimum quarterly meetings of the Network.

GEO manages government’s relationship with the Equality and Human Rights Commission (EHRC). This is an executive Non Departmental Public Body (NDPB), established under the Equality Act 2006.

The EHRC has specific duties and powers under the Equality Act 2006. They include:

- promoting equality, diversity and human rights, including holding inquiries and investigations;
- enforcing equality legislation – they are the key UK body for this.

The EHRC also has responsibilities to promote equality and human rights deriving from the UN and the EU – the United Nations Paris Principles and the European Union Equality Directives. Its compliance with these international commitments is independently assessed.

Government departments remain responsible for their own policy areas. For example, while GEO has an interest in supporting efforts to prevent and address hate crimes towards lesbian, gay, bisexual and transgender people, the Home Office retains overall responsibility for hate crime policy.

In particular, departments who ‘own’ policy that directly affects transgender people include:

- Cabinet Office (electoral registration)
- Department for Business, Innovation and Skills (employment rights, higher and further education, Skills Funding Agency);
- Department for Communities and Local Government (homelessness);
- Department for Culture, Media and Sport (media policy, press regulation);
- Department for Education (schools, children, young people, NEETS);
- Department of Health (national health and social care policy);
- Department for Work and Pensions (pensions, Jobcentre Plus);
- Home Office (hate crime, passports, asylum seekers, general registration e.g. birth certificates);
- Ministry of Defence (armed forces);

- Ministry of Justice (Gender Recognition Act 2004, human rights, hate crime, criminal justice system, NOMS (National Offender Management Service), prison service, the Information Commissioner's Office e.g. data protection);
- NHS England (oversees the budget, planning and delivery of the commissioning side of the NHS in England)
- PHE England (health promotion campaigns, health protection, public health policy, screening)

In addition, GEO will occasionally work in partnership with other Government departments on specific projects of mutual interest. A current example of this is the delivery of the Government's programme on homophobic, biphobic and transphobic bullying in schools which is referred to in more detail below. Recently, GEO have been able to work with sector experts to draw up guidance on issues like advice to service providers on how to deal appropriately and sensitively with transgender service users; and advice on protection of transgender individuals' privacy.

A number of Departments engage with *a:gender*, the cross Government staff association for transsexual and intersex staff, which helps develop both workplace policy and policy more generally concerning transgender issues.

GEO also funds the Equality Advisory and Support Service (EASS), a helpline for those who may have been discriminated against or have a human rights issue. The EASS is an accessible, inclusive and free service, whose advisors are trained to deal with sensitive issues and work with each person to find the best solution to their issue. The EASS was set up in October 2012 and covers England, Scotland and Wales.

More information can be found on their website: www.equalityadvisoryservice.com

Since the EASS opened in October 2012, out of just over 47,000 enquiries from individuals relating to a protected characteristic, 562 were related to transgender issues.

More than half of all enquiries from transgender people relate to services or public functions (53%); a slightly smaller proportion (39%) relate to employment. Enquiries relate to both the private (39%) and public (34%) sectors. 40% of enquiries relate to incidences of direct discrimination while 20% of enquiries relate to harassment.

While absolute numbers are low (562 queries since October 2012), this represents 1.2% of all queries suggesting the service disproportionately benefits transgender people. Anecdotal evidence and case studies published by the EASS (for example, www.equalityadvisoryservice.com/app/case_studies/a_id/389) suggest the service is highly valued by transgender users.

Legislative framework

Responsible Departments: Government Equalities Office (Equality Act 2010, Marriage (Same Sex Couples) Act 2013); Ministry of Justice (Gender Recognition Act 2004, human rights).

The UK has one of the world's strongest legislative frameworks to prevent and tackle discrimination on the grounds of gender reassignment. The Government is proud that the UK has been recognised as number one in Europe on lesbian, gay, bisexual and transgender rights for each of the last five years by the International Lesbian and Gay Association-Europe.

Equality Act 2010

Policy on the Equality Act 2010 is the responsibility of GEO.

The Equality Act 2010, which consolidated the range of previous anti-discrimination laws into a single Act, includes gender reassignment as a protected characteristic and specifies that transsexual people are covered in this group. The definition of gender reassignment is contained at Section 7 of the Act:

A person has the protected characteristic of gender reassignment if the person is 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.

This definition of gender reassignment was more expansive than the previous legal definition as it was no longer necessary to demonstrate that medical supervision is underway. The Equality Act 2010 also extended the circumstances in which transsexual people are protected against discriminatory behaviour to include indirect discrimination, discrimination by association and discrimination by perception. Discrimination by perception provides protection from discrimination to a wider spectrum of the trans population, for example, people incorrectly perceived as undergoing gender-reassignment, when they are in fact not.

The Equality Act 2010 includes a proactive duty on public bodies to consider equality issues when developing policies and delivering public services. This duty, the public sector Equality Duty (PSED), includes a specific requirement on public bodies to consider gender reassignment.

Public bodies are also required to set regular equality objectives, and to publish information about the body's performance in promoting equality, so the public can hold them to account. They should collect and publish data demonstrating how they comply with the duty in relation to the protected characteristics of both their workforces (in the case of authorities with 150 or more employees) and their service users, and how each are affected by particular policies and services.

A review of the PSED, which concluded in September 2013, noted that public bodies approach the issue of data collection and publication in very different ways. It noted in particular that data collection and publication on gender reassignment is patchy, because the systems to collect the data are not well established and reporting levels are low. The EHRC has published guidance to help public bodies improve their performance in regard to data collection, which is seen as important to many public bodies, as well as to voluntary and community sector organisations, and other groups that have an interest in improving service provision.

The review concluded that it was too early to determine whether the PSED was operating as intended and recommended that it should be examined again after a further three years, in 2016. The Government accepted this recommendation.

Gender Recognition Act 2004

Policy on the Gender Recognition Act 2004 is the responsibility of the Ministry of Justice.

The Gender Recognition Act 2004 enables transsexual people to change their gender legally and gain the rights and responsibilities of their acquired gender. All applications are determined by the Gender Recognition Panel and applicants who meet the Gender Recognition Act's requirements are granted a Gender Recognition Certificate.

The Gender Recognition Act is the responsibility of the Ministry of Justice as it is a human rights issue. The Gender Recognition Act was developed because of the outcome of the European Court of Human Rights (ECHR) case *Goodwin v The United Kingdom*. The ECHR found a violation of Article 8 (right to respect for private and family life) and a violation of Article 12 (right to marry and to found a family).

The Gender Recognition Panel is a judicial body – part of Her Majesty's Courts and Tribunals Service (HMCTS), an executive agency of the Ministry of Justice – and comprises legal and medical members, supported by an administrative team. The Panel sit in private and consider the documentary evidence supplied by the applicant in support of their application to have their gender recognised. Applications are considered on a case by case basis.

In January to March 2015, 98 applications were received by the Gender Recognition Panel, the highest number of applications recorded in a quarter since the beginning of the series in 2009/10. A total of 343 applications were received in 2014/15, which is an increase of 10% compared to 2013/14.

There are three types of application process; standard, alternative and overseas. The standard application is completed by individuals who are 18 years old or over, have lived permanently in the acquired gender for two years or more and continue to do so, have been diagnosed with *gender dysphoria* [this is the formal diagnosis used by psychiatrists to describe people who experience significant discontent between the sex they were assigned at birth and their own internal perception of their gender] and intend to live permanently in the acquired gender. Of the total applications in January to March 2015, 82 were standard track. There were 313 standard track applications received in 2014/15, an increase of 6% (19) on 2013/14.

The alternative application track commenced on 10 December 2014 (for Scottish protected marriages and civil partnerships this date is 16 December 2014) and is completed by individuals who are 18 years old or over, have lived permanently in the acquired gender for six years or more prior to 10 or 16 December 2014, continue to do so to the date of their application and intend to continue to do so permanently, have or have had gender dysphoria or have undergone surgery to modify sexual characteristics and were in a protected marriage or protected civil partnership on or before the date of application. The alternative track is for individuals who are ordinarily resident in England, Wales and Scotland. In January to March 2015, there were 10 alternative track applications.

Finally, there is the overseas track for individuals whose acquired gender has been legally accepted in an approved country or territory outside the United Kingdom; six of the total applications in January to March 2015 were via the overseas track. There were 15 overseas applications in total for 2014/15, down from 17 applications in 2013/14.

Of the applications in January to March 2015, a full Gender Recognition Certificate was granted in 73 cases (92% of the total), reflecting a 9% increase on January to March 2014. There were 244 full Gender Recognition Certificates granted in 2014/15, 23% (74) fewer than in 2013/14. In these cases the person was judged by the Gender Recognition Panel to have satisfied the criteria for legal recognition in their acquired gender. The proportion of cases where a full Gender Recognition Certificate was granted has been largely stable over the last five years.

There were two cases where an interim Gender Recognition Certificate was granted in January to March 2015 and nine interim Gender Recognition Certificates granted overall in 2014/15, which is just over half the amount issued in 2013/14. Interim certificates are granted to applicants who meet the criteria for gender recognition, but who:

- are not eligible to remain married following their gender recognition because they were married under the law of Northern Ireland; or
- are eligible but either they and/or their spouse have decided that they do not wish to remain married after the issue of their full Gender Recognition Certificate; or
- are in a protected civil partnership or Scottish protected civil partnership, where only one partner has applied for gender recognition (or where both have applied and only one is successful); or
- are in a civil partnership but one which is not a protected or Scottish protected civil partnership.

In these circumstances, once the successful applicant has ended their marriage or civil partnership, they can then be issued a full Gender Recognition Certificate.

Between 1 April 2005 and 31 March 2015 there were 183 interim certificates issued by the Gender Recognition Panel. As of 31 March 2015, 67% of these had been converted to a full Gender Recognition Certificate.

Section 22 of the Gender Recognition Act defines any information relating to a person's application for a Gender Recognition Certificate or to a successful applicant's gender history as 'protected information'. It is in most instances a strict liability offence to disclose protected information to any other person if the information has been acquired in an official capacity. The exemptions to when it is an offence to disclose protected information listed in section 22 are tightly drawn to avoid abuse.

A transsexual person's gender history, regardless of whether or not they have a Gender Recognition Certificate, may also constitute sensitive personal data as defined by the Data Protection Act 1998.

Marriage (Same Sex Couples) Act 2013

Policy on the Marriage (Same Sex Couples) Act 2013 is the responsibility of GEO. However, this is a cross-Government Act, e.g. policy responsibility for the pension provisions in the Act rests with the Department for Work and Pensions and Her Majesty's Treasury; and policy responsibility for the gender recognition provision in the Act rests with the Ministry of Justice.

The gender recognition provisions of the Marriage (Same Sex Couples) Act 2013 were implemented on 10 December 2014 and the gender recognition provisions of the Marriage & Civil Partnership (Scotland) Act 2014 were implemented on 16 December 2014. The provisions enable applicants for gender recognition married under the law of England and Wales, Scotland or a country or territory outside the UK, to obtain their gender recognition certificate while remaining in their marriage, where both parties agree to remain married.

Applicants for a Gender Recognition Certificate who are married or in a civil partnership formed in England and Wales must provide a signed declaration of consent (the so-called "spousal veto") from their spouse/civil partner, confirming that they are happy to stay in the marriage following the applicant's change of legal gender. This does not mean anyone will have a right to prevent their wife or husband obtaining a legal gender change; simply that they will be allowed to decide whether they want their marriage to continue before gender recognition is granted. Marriage is a contract between two individuals and it is right that both spouses should have an equal say in their future when there is a fundamental change.

Where either spouse does not complete the statutory declaration stating their intention to remain married, the Gender Recognition Panel will grant the applicant an interim Gender Recognition Certificate. The interim certificate can be used by either the applicant or their spouse to issue annulment proceedings to bring the marriage to an end, following which the Court can issue a full Gender Recognition Certificate.

The Ministry of Justice has committed to monitor issues arising from the spousal declaration of consent. Since the gender recognition provisions of the 2013 Act were only introduced in December 2014, there is not yet enough evidence to review the impact of these changes. However, Her Majesty's Courts and Tribunal Service statistics do now record whether applicants for Gender Recognition Certificates are married, and in the last quarter 10 applicants (14%) were married and successfully used the process.

Employment, the workplace and pensions

Responsible departments: Department for Business, Innovation and Skills (employment rights); Government Equalities Office (Equality Act 2010); Department for Work and Pensions (pensions, Jobcentre Plus); Ministry of Defence (armed forces).

The Government recognises that people who work in an inclusive environment free from discrimination are free to achieve their potential. Employing a diverse workforce makes sense, and employers with Lesbian, Gay, Bisexual and Transgender-friendly policies are able to attract the best talent regardless of sexual orientation or gender identity. So this not only benefits the employee but their employer as well.

The Equality Act 2010 protects people with the protected characteristic of gender reassignment from discrimination, harassment or victimisation in the workplace. However, the Government knows from discussion with stakeholders that transgender people may still

face difficulties in the workplace when transitioning. GEO has worked with sector experts to develop advice to employers on recruiting and retaining transgender employees.

Employment law (the responsibility of the Department for Business, Innovation and Skills) does not distinguish between individuals who change their legal gender and those who do not. The exception is Maternity Leave and Pay which is only available to pregnant women and new mothers. This is because Maternity Leave and Pay is provided for the purposes of preparing for and recovering from birth and bonding with the child. But fathers and partners (including same sex partners and partners who have changed gender) have access to other types of family related leave and pay, namely: Shared Parental Leave and Pay, Adoption Leave and Pay and Paternity Leave and Pay.

In delivering its services, the Department for Work and Pensions is committed to embracing diversity and promoting equality of opportunity. To raise awareness of transgender equality and how to provide an equal service for all Department of Work and Pensions customers, guidance and advice called Access to Department of Work and Pensions Services has been developed and communicated to all staff.

Jobcentre Plus has also produced revised guidance and information for staff to help them support employers to attract, recruit, manage, retain and develop employees to help create a more diverse workforce. Training and guidance for staff to raise awareness of the needs of transgender job seekers have also been implemented, so that staff can more effectively support transgender job seekers in finding employment.

In order to ensure privacy of data, the Department of Work and Pensions Customer Information System, which is updated with Gender Recognition Certificate data to enable gender data to be changed, has been enhanced to no longer automatically display the presence of Gender Recognition Certificate data on a customer's record. This ensures that only specialist staff are aware of, or have access to, Gender Recognition Certificate information for customers.

State pension is paid according to the rules of a person's legal gender. So if someone has been issued with a full Gender Recognition Certificate then state pension is paid according to the rules of their acquired gender.

Transgender people in the Armed Forces

Policy on transgender people in the Armed Forces is the responsibility of the Ministry of Defence.

Defence recognises that its people are its most important asset. The Defence Diversity and Inclusion Programme (DDIP) was established in late 2013 with the aim of creating a more inclusive working environment and increasing the diversity of MOD's workforce, both military and civilian. The Programme will help Defence develop and sustain the policies, processes, behaviours and cultures necessary to attract, retain and support talented individuals, and demonstrates our commitment to ensuring that our workforce truly reflects wider UK society.

The Ministry of Defence have put measures into place to support our Transgender Service personnel and Civil Servants. Our policies are regularly revised to ensure not only that we

comply with the Equality Act 2010 but, more importantly, that we are able to offer adequate support to individuals and their line managers /chain of command. We recognise that each case is unique and we encourage line managers/the chain of command to consider the needs of the individual. Our policies are key to helping individuals to become more comfortable in the workplace; ensuring that their needs are catered for by the Department.

Defence's policy in support of Transgender Service personnel is set out in our guidance: "Policy for the Recruitment and Management of Transgender Service Personnel in the Armed Forces". This guidance offers advice and support to individual Service personnel, as well as the chain of command. It ensures that Service personnel are able to obtain the appropriate advice as they begin the transition to their new acquired gender. This guidance has been available since 2009 and an updated version of the guidance will be published in August 2015. For Transgender Civil Servants, and their Line Managers, guidance is available on the MOD intranet: Defence Equality and Diversity Policy Gender Reassignment. Further information is also available in the paper Gender Reassignment Legislation and Gender Reassignment Explained.

Defence also supports *a:gender*, a support network for staff in government departments/agencies who have changed or need to change permanently their perceived gender, or who identify as intersex. Along with four other large Departments (Home Office, DWP, Ministry of Justice, and HRMC) we contribute funds to help with the cost of running the organisation. The Department also recently held a very successful event in support of *a:gender*, attended by civil servants across Government and members of the Armed Forces. The event enabled staff to get together and share examples of best practice, and demonstrates our commitment to supporting the work of this organisation and our transgender staff.

The Ministry of Defence have also been working with organisations such as Stonewall and RADIUS (a business networking organisation promoting LGB&T inclusivity) to improve inclusivity within Defence, thereby creating a climate which will encourage transgender individuals to feel comfortable that they can be themselves within the Department. We recently held a Role Model Programme at the Defence Academy and an LGB&T Allies workshop at Ministry of Defence Headquarters. These workshops have done much to raise the profile of LGB&T staff within Defence.

The Minister for the Armed Forces (Min AF) has recently become a Defence Ally for those individuals from the LGB&T strand. The Parliamentary Under Secretary of State has also given his support to diversity and inclusion, including taking on the role of Diversity Champion on the Defence Board, and is keen to work to improve the culture within the Department. The individual Services and the civil service within MOD also have their own LGB&T champions. With the support of these key individuals we will be able to continue to develop and drive through the policies necessary to improve the lived experience of those from the Protected Characteristic strands including transgender staff.

The Ministry of Defence accept that there is more that can be done; for example they are currently conducting a review into Women in Ground Close Combat roles. The issues surrounding the differences between male and female physical performance, health impacts of an arduous military career and mitigations will be considered as part of the review. As such the position with regards to transgender personnel who are currently not able to serve in these roles following transition will be clarified, although due to the nature of transition, applicants will still need to be considered on a case by case basis.

The Ministry of Defence will continue to do all that we can to support transgender staff, and to ensure that our workforce is diverse and reflects British society.

Transphobia, portrayals of transgender people and hate crime

Responsible departments: Department for Culture, Media and Sport (media policy, press regulation); Home Office (hate crime); Ministry of Justice (hate crime, criminal justice system).

Portrayals of transgender people

The Government recognises the influential role that all forms of media play in shaping cultures and attitudes towards people, including transgender people, in our society. In recognition of this, the Minister for Culture (in the Department for Culture, Media and Sport) has been keen to take forward the agenda on diversity in broadcasting and this includes the representation of lesbian, gay, bisexual and transgender people on and off screen. This has led to two important initiatives:

- The Equality and Human Rights Commission (EHRC) and OFCOM are producing guidance specifically for broadcasters on how to take positive action to increase levels of diversity. The first part of that guidance is due to be published on 28 August; and
- the Creative Diversity Network - which has all the major broadcasters as members - is building Project Diamond which will be a standardised data benchmarking and monitoring system. Project Diamond will be shared by all the broadcasters and will collate and publish detailed diversity statistics to be generated, tracked over time and benchmarked. Metadata on TV programmes genres and role types will make it possible to generate more in-depth diversity reports that might show, for example, concerns about under representation in particular roles or types of programming. The system will include collection of data on transgender. The system will be ready to go live towards the end of the year.

Both the industry and the Government agree independent self-regulation of the press is the way forward. The Government has introduced a new system of independent press self-regulation that protects press freedom whilst offering real redress when mistakes are made. This system is in the process of being established.

Alongside this process, the press has established a new self-regulatory body, the Independent Press Standards Organisation (IPSO), to which the majority of the press (over 1400 print titles and over 1000 online titles) has signed up.

The Independent Press Standards Organisation handles complaints about breaches of the Editors' Code of Practice, which states that "The press must avoid prejudicial or pejorative reference to an individual's race, colour, religion, gender, sexual orientation or to any physical or mental illness or disability."

The Independent Press Standards Organisation is able to support members of the public in seeking redress where the Editors' Code has been breached; it has the power to require the

publication of prominent corrections and critical adjudications, and may ultimately fine publications in cases where failings are particularly serious and systemic.

Transphobic hate crime

Hate crime policy is the responsibility of the Home Office, Ministry of Justice and the Department of Communities and Local Government.

The UK has one of the strongest legal frameworks to combat hate crime, with enhanced sentencing mandatory for any crime where the offender is proven to have demonstrated or been motivated by a hostility, including to transgender victims. (Section 146, Criminal Justice Act 2003) [the responsibility of the Home Office and Ministry of Justice]. The Justice Minister has asked the Law Commission to review hate crime laws and has committed to reviewing their recommendations in this parliamentary period.

Government's response is coordinated by the Cross-Government Hate Crime Programme which brings all departments together with Criminal Justice Agencies to ensure a consistent approach. The Programme includes a standing Independent Advisory Group which includes a number of representatives of, and advocates for, transgender victims. The programme has overseen a range of responses to increase victim confidence to report, including the development of the police hate crime web facility True Vision (www.report-it.org.uk) and the production of guidance for criminal justice professionals including the College of Policing's Hate Crime Strategy and Operational Guidance (http://www.report-it.org.uk/strategy_and_guidance) which was published in 2014 and includes specific guidance on responding to transgender hate crime. While the lead Minister is the Home Secretary, the Programme is hosted by the Ministry of Justice.

The Government and all criminal justice agencies share a common definition of hate crime which was agreed in 2007. Since this time transgender hostility has been included alongside race, religion, sexual orientation and disability. The relevant parts of the definition are:

“Any criminal offence which is perceived, by the victim or any other person, to be motivated by a hostility or prejudice against a person who is transgender or perceived to be transgender”.

Victims covered include people who are transsexual, transgender, transvestite and those who hold a Gender Recognition Certificate under the Gender Recognition Act 2004.

The police also record non-crime hate incidents to recognise that non-criminal activity can have a damaging impact on victims and communities as well as a risk of escalation if not challenged. The definition for non-crime hate incidents includes:

“Any non-crime incident which is perceived by the victim or any other person, to be motivated by a hostility or prejudice against a person who is transgender or perceived to be transgender”.

The police have published hate crime data from 2008, and from April 2011 it has been included in National Crime Statistics. It recorded 310 hate crimes for 2011/12; 361 for 2012/13; and 555 for 2013/14.

Despite this 54% rise in recorded crimes over three years, Government has recognised that all hate crimes are significantly under-reported and has identified transgender victims as one group of particular need. The Crime Survey of England and Wales asks respondents about their experiences of hate crime and whilst it asks about transgender motivated offences there are not enough transgender victims to make the data statistically reliable and, as such, this data has not been published.

The Government's last Hate Crime Action Plan '*Challenge It, Report It, Stop It*' outlined what the Government and agencies are doing to strengthen the current legal framework, better identify victims of hate crime and manage cases through the system, and to deal effectively with offenders. Since publishing the action plan, the Government has:

- amended section 146 of the Criminal Justice Act 2003, to include transgender identity in the suite of aggravating factors, where courts have the power to increase the sentence length for crimes motivated by hostility towards the victim based on a personal characteristic;
- amended Schedule 21 of the Criminal Justice Act 2003, to increase the starting point for murders aggravated by disability or transgender identity from 15 years to 30 years, ensuring that all five monitored strands of hate crime are equally reflected in these provisions; and
- developed specific resources on improving communications with transgender people and encouraging increased reporting, following a national seminar with transgender organisations, which have been published on the True Vision website.

The Government recognises that hate crimes, targeted at someone because of who they are, can have a devastating impact on individuals. No-one should have to live in fear or suffer in silence and in order to protect LGB&T people fully, we need to do even more. In recognition of the fact that hate crime towards LGB&T people is under-reported, the Equality and Human Rights Commission has recently awarded grants from a £1 million programme to increase the reporting of lesbian, gay, bisexual and transgender hate crimes and incidents and improve the support available to those targeted. This programme to encourage lesbian, gay, bisexual and transgender people to report hate crimes to the relevant authorities has the full support of Government.

Discussions are currently being held around commissioning a new hate crime action plan and this would offer the opportunity to capture any ongoing concerns relating to transgender hate crime and reflect these in actions being taken forward.

Criminal justice system

Responsible departments and divisions: Hate crime (in part), the criminal justice system, the National Offender Management Scheme (NOMS) and the Prison Service is the responsibility of the Ministry of Justice.

The community and custodial perspective.

An Instruction on the Care and Management of Transsexual Offenders is due for release in October 2015. It will extend to Public Sector and Contracted Prisons, the National Probation

Service (NPS), and the 21 Community Rehabilitation Companies which manage the majority of community orders.

The Instruction signals a joined-up, post-reform approach to best practice in the care and management of transsexual offenders, and members of the wider transgender community, in statutory contact with the National Offender Management Service. Some individuals will experience both a custodial sentence and community supervision during the period in which they are acquiring a different gender to their birth gender. The Instruction describes how at each stage the offender can be properly and lawfully supported. It also gives guidance on dealing with issues that are currently affecting transgender people such as; make-up, clothing, a name change and access to other gender specific items whilst in custody. The new instruction will enable staff to further work with those that have a genuine need to live in an acquired gender and help the feelings of isolation and well-being by creation of a care and support plan for the individual and for staff to work from. The plan will also be a fluid document that allows for reviews to take place at regular times.

In Prisons, there is a requirement to identify and record a prisoner's gender on the National Offender Management Information System. The National Offender Management Service is bound by a legal duty (Gender Recognition Act 2004) not to disclose a transgender person's acquired gender whilst they are in their care unless they give specific consent. This is required for some cases in particular identifying any parallel offending that could take place from living in the acquired gender. OASys (Offender Assessment System) is the National Offender Management Service system for managing offenders and as such will need to record any of these findings. Specific case managers have been identified in OASys national team that can help and advise Local Offender Managers on disclosure from transgender prisoners and how this can be managed.

From September 2015, a national Equality Information Form will be mandated for completion at offenders' first point of contact with the National Offender Management Service, which is pre-sentence at court. The form allows an offender to indicate that they are undergoing gender reassignment and to consent in writing to this information being properly recorded and shared in the course of their statutory contact. In this way, NOMS will have information on the number of offenders with this protected characteristic, and will be able to respond appropriately to individual offenders who are transgender.

At any time, the offender retains the right to withdraw consent to disclosure. Each time they plan to share the information with a third party, the Responsible Officer is lawfully bound to check with the offender that they continue to allow consent. Plans are underway to amend the National Probation Service case management database, National Delius, which will allow this protected characteristic to be recorded appropriately, including with restricted access.

In 2014, a sampling exercise was conducted that entailed a series of semi-structured interviews with transgender offenders in statutory contact with a Probation provider. The information was transcribed thematically and provides a unique 'service user' perspective. The exercise provided important insights that informed the development of a pending Instruction and which have enriched the quality of care we are able to provide.

The National Offender Management Service brought out a Hate Crime Framework in July 2013, which covered each of the main categories of hate crime, including 'gender identity'

hate crime. The National Offender Management Service continues to develop ways to improve its response to managing perpetrators who have committed this type of offence.

Transgender young people and education

Responsible Departments: Department for Communities and Local Government (homelessness); Department for Business, Innovation and Skills (higher and further education, Skills Funding Agency); Department for Education (schools, children, young people).

Schools

Education is a formative phase of everyone's life. All children and young people should be allowed to be themselves and to achieve all that they are capable of. The Government is determined to stamp out bullying in school (or in higher or further education) because of their gender identity, and that no young person should drop out of education or training early because of bullying or the need to move out of home due to transphobia. The statutory Sex and Relationship Education (SRE) guidance states that young people, whatever their developing sexuality, need to feel that sex and relationship education is relevant to them and sensitive to their needs. Teachers should be able to deal honestly and sensitively with sexual orientation, answer appropriate questions and offer support. Recently, GEO have funded the PSHE Association and sector experts to draw up advice for schools on gender variant pupils, incorporating a toolkit for schools on supporting gender variant pupils; and lesson plans on gender identity for use in Personal, Social and Health Education (PHSE) lessons.

Schools often use PSHE to address topics such as gender identity and bullying. The government supports the PSHE Association's non-statutory programme of study for PSHE, which includes respecting and recognising equality and diversity in relationships as part of its core relationship theme. We have said in the introduction to the new national curriculum that all schools should teach PSHE, drawing on good practice.

Schools are held clearly to account by Ofsted for how well they deal with bullying. Since January 2012, school inspections focus on the four core areas of a school, one of which is behaviour and safety, including bullying. Inspectors must consider pupils' freedom from harassment, bullying and discrimination.

Ofsted's Common Inspection Framework, which takes effect in September 2015 and covers standard inspections of early years, schools and further education and skills providers, requires inspectors to pay particular attention to the outcomes of a number of specific groups, including transgender children and learners. Inspectors will make a graded judgement on personal development, behaviour and welfare by evaluating the extent to which provision successfully promotes and supports all children and other learners' self-confidence, self-awareness and preparedness to respect and relate to others. Inspectors will also consider children and learners' understanding of how to keep themselves safe from relevant risks and their knowledge of how to keep themselves healthy, both emotionally and physically. In addition, the Framework requires inspectors to assess the extent to which the school or provider complies with relevant legal duties as set out in the Equality Act 2010 and the Human Rights Act 1998, promotes equality of opportunity and takes positive steps to prevent any form of discrimination either direct or indirect against those with protected characteristics in all aspects of their work.

All schools are required, in carrying out their functions, to have due regard to the need to achieve the objectives set out under s149 of the Equality Act 2010 (the PSED). The Department for Education has produced guidance for schools to help them understand how the Equality Act affects them and how to fulfil their duties, including the PSED under the Act. This includes issues such as gender identity and sexual orientation.

The government continues to make tackling all forms of bullying a top priority. The government does not want any young person to go to school dreading the treatment they will get. It is never acceptable for a child to be bullied, victimised or harmed in any way. All schools are required by law to have a behaviour policy with measures to tackle bullying among pupils. Schools are free to develop their own anti-bullying strategies but they are held clearly to account for their effectiveness through Ofsted.’

In response to stakeholder concerns highlighted to GEO about the prevalence of homophobic, biphobic and transphobic bullying, GEO and Department for Education have run a programme of work to tackle homophobic, biphobic and transphobic bullying in schools more effectively. In March 2015, Ministers announced grants to eight organisations in a ground-breaking programme of work to support developments in school policies and training. These will increase knowledge and confidence to deal with the issue, but also help foster positive discussions and attitudes about the harm that bullying and prejudice can cause. An additional £2 million was made available by GEO to schools for this innovative work. We have commissioned an evaluation of the impact of those initiatives and will share our findings in the summer of 2016.

Higher and Further Education

Responsible department: Department for Business, Innovation and Skills.

Higher Education Institutions are independent and autonomous bodies and are responsible for addressing any issues of discrimination at their institutions. However, the Equality Act 2010 prohibits Higher Education Institutes from discrimination against students with protected characteristics such as gender reassignment.

In Further Education, the Skills Funding Agency commissioned research in 2011 into sexual orientation and gender identity equality in adult learning. The findings of the research can be found [here](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/288670/Sexual_Orientation_and_Gender_Identity_Equality_in_Adult_Learning-Published_August_2011.pdf): https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/288670/Sexual_Orientation_and_Gender_Identity_Equality_in_Adult_Learning-Published_August_2011.pdf.

The report made a number of recommendations aimed at further education colleges and independent training providers. The Skills Funding Agency have subsequently funded a range of projects to address the research findings, through the Equality and Diversity Good Practice Fund and its predecessor funds. An evaluation of the fund by the Institute for Employment Studies found that it has been particularly effective in raising the status of ‘newer’ protected characteristics such as gender identity. The good practice and resources from each project are freely available for the whole sector to use on the Equalities Toolkit.

Projects have included:

- Pinnacle Training, which created the Empower Toolkit, an e-learning tool for further education staff to use as part of their continuous professional development.
- Knowsley Family and Community Education, which worked with staff, tutors, learners and local community partners to raise awareness of transgender equality and develop new curriculum content sensitive to the needs of transgender people.
- Blackpool Council researched engagement, participation and well-being of transgender people in Community Learning.
- Bradford College researched the needs of transgender people in further education, to produce a guidance document for staff, training resources for teaching and support staff and student representatives, and the development of transgender-positive marketing materials.

Additionally, the Skills Funding Agency worked with the Forum for Sexual Orientation and Gender Identity Equality to produce Guidance on transgender equality in post-school education.

Homelessness

Responsible department: Department for Communities and Local Government.

Homelessness legislation in England provides a strong safety net for families with children and vulnerable people who become homeless through no fault of their own. The legislation does not discriminate on the basis of gender, sexual orientation or transgender equality but operates on the basis of need. Whenever someone seeks housing assistance from their local council they are assessed as to whether they are eligible, homeless through no fault of their own and in priority need, and where this is the case the council has a duty to secure accommodation. The council is also required under the legislation to provide advice and information free of charge to anyone in their district on homelessness and the prevention of homelessness.

The Government has worked closely with leading voluntary sector organisations and local authorities to develop the 'Positive Youth Accommodation Pathway' service model - designed to support young people to remain in the family home where it is safe to do so and offer tailored support options for those that can't. This includes supported accommodation as a starting point for 16 and 17 year olds. The pathway stresses the need for an integrated approach from agencies, working together to support young people who are unable to remain in the family home and underpins a set of key principles focused on progression to work and economic independence through a range of accommodation options.

The Government has supported the roll-out of No Second Night Out nationally through the £20 million Homelessness Transition Fund in 2011/12. No Second Night Out focuses on helping those who find themselves rough sleeping on the streets for the first time. The following lesbian, gay, bisexual and transgender projects were supported by the fund:

- The merger of the Albert Kennedy Trust and The Outpost Housing Project in 2013 to help increase provision and meet the needs of LGB&T youth homelessness on a national basis.

- Stonewall Housing - the fund helped to support No Second Night Out services to be more aware of the needs of LGB&T rough sleepers and the delivery of a LGBT Awareness Programme to No Second Night Out organisations in London, Brighton and Manchester. This involved facilitating focus groups with staff and service users about their experiences of services, training outreach workers and with other front line staff about the unique issues that lesbian, gay, bisexual and transgender rough sleepers face. It also involved reviewing policies and procedures.

In 2014/15, GEO provided a £48,600 grant to the Albert Kennedy Trust, a charity working to support lesbian, gay, bisexual and transgender young people who are made homeless or are at risk of homelessness, to support the development of a national online mentoring service. The project provides young lesbian, gay, bisexual and transgender people with online one-to-one support and advice at times when they are at risk - like coming out to their parents - as well as helping to build resilience, promoting better wellbeing and helping to prevent lesbian, gay, bisexual and transgender people from homelessness, and supporting those young people to live independent lives through providing essential life skills. It is currently being piloted in Manchester, Cumbria/Northumberland, Birmingham/Leicester and Exeter.

NHS services for transgender people

Responsible Departments: Department of Health (national health and social care policy); NHS England (oversees the budget, planning and delivery of the commissioning side of the NHS in England). Public Health England (PHE) (an executive non-departmental body responsible for protecting and improving the nation's health and wellbeing, and reduce health inequalities).

NHS England is the executive non-departmental public body responsible for the delivery of healthcare service in England. GEO has requested that they submit evidence to the Committee. NHS England have confirmed that they will submit separate, detailed evidence to the Committee on NHS services for transgender people.

The NHS plays a significant part in the lives of transgender people by providing care for those with *gender dysphoria*, including Gender Identity Clinic services which are able to deliver the range of multi-disciplinary services required for an individual to transition. Denying or delaying this transition can lead to depression and ill-health, self-harm or suicide.

Public Health England (PHE) Transgender Services

PHE provides specialist public health support to the specialist commissioning programme in NHS England, this includes NHS gender identity service commissioning.

PHE provides specialist public health advice to support Local Authority led commissioning of NHS services for sexual and reproductive health services, drugs and alcohol rehabilitation services, NHS health checks and public health intervention programmes. PHE specialist teams have undertaken specific work on trans inclusion and earlier this year published a specific toolkit for nurses, in partnership with the Royal College of Nursing, on suicide prevention with trans youth.

PHE supports the NHS screening programmes and has specifically considered the inclusion of trans individuals in gender based national screening programmes e.g. cervical screening, breast screening and abdominal aortic aneurysm screening.

PHE is working with the National Lesbian, Gay, Bisexual and Trans partnership on a range of issues. Last year this included developing a new range of trans health fact sheets on healthy living topics which were developed in collaboration with trans people and led by trans community organisations.

PHE hosted a national conference on LGB&T health issues in 2014/15 which included a specific strand of workshops on trans inclusion and health inequalities. There have also been specific workshops on LGB&T inequalities in physical activity, and work on smoking and the LGB&T community. PHE is currently working with HESTIA (a housing and support charity) on a round-table to support trans inclusion in domestic violence refuge provision.

7 September 2015