

SPS Policy for the Management of Transgender People in Custody

Operational Guidance

Scottish Prison Service

Strategy and Improvement

February 2024

Unlocking Potential. Transforming Lives

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FLOW CHART OF THE ADMISSIONS AND PLACEMENT PROCESS

Admission first 72 hours

SCOTTISH COURT CUSTODY AND PRISONER ESCORT SERVICES (SCCPES) CONTACT LOCAL ADMITTING PRISON TO NOTIFY OF TRANSGENDER ADMISSION.

DUTY MANAGER AT LOCAL ADMITTING PRISON & SENIOR MANAGEMENT TEAM MAKE DECISION WHETHER TO ADMIT INDIVIDUAL INTO WOMEN'S OR MEN'S ESTATE. IF A DECISION IS MADE TO TRANSFER THE INDIVIDUAL THE LOCAL ADMITTING PRISON TO LIAISE WITH DUTY MANAGER IN ESTABLISHMENT CONSIDERED APPROPRIATE. THE HQ DUTY MANAGER MUST BE INFORMED.

TRANSGENDER WOMAN

TRANSGENDER MAN

Known/unknown risk

No apparent or obvious risk

Known/unknown vulnerability

No Apparent or obvious vulnerability

MEN'S ESTATE

If a transgender woman meets the VAWG criteria outlined in Annex 6 and information is available to support or assess that they pose a risk of harm to those accommodated in the women's estate or there is another basis to suppose that they pose a risk to women, they must be located on admission to the men's estate.

If the initial information provided indicates that the individual does not meet the VAWG criteria (Annex 6) with their current offence, but SPS cannot be certain of all previous offences at the time of admission; or SPS cannot sufficiently assess a transgender individual's risks and needs as a result of the level of information available, then they should be deemed an 'unknown risk' and admitted to the men's estate until further information is made available.

Consideration may be given to management under Rule 95(1) conditions until further information can be ascertained (see guidance below).

WOMEN'S ESTATE

A transgender woman could be admitted into the women's estate, but **only** if they **do not** meet any of the VAWG criteria in Annex 6 and there is no other basis to suppose that they pose an unacceptable risk of harm to those housed in the women's estate (See admission guidance below for further information).

Consideration may be given to manage the individual under Rule 95(1) conditions until further information can be ascertained (see guidance below).

WOMEN'S ESTATE

A transgender man for whom there are concerns about their health, safety or wellbeing at the time of admission, whether these are known or we cannot assess his vulnerability should be admitted to the Women's estate.

In order to ensure the protection of both the transgender man and others they are accommodated alongside, in cases where a transgender man meets the VAWG criteria, or they are deemed an 'unknown risk', they may be managed under Rule 95(1) conditions within the women's estate until further information can be ascertained (see guidance below).

MEN'S ESTATE

A transgender man can be considered for admission into the men's estate if full information is available to determine there are no concerns around their health, safety or wellbeing at the time of admission.

Consideration may be given to management under Rule 95(1) conditions until further information can be ascertained (see guidance below)

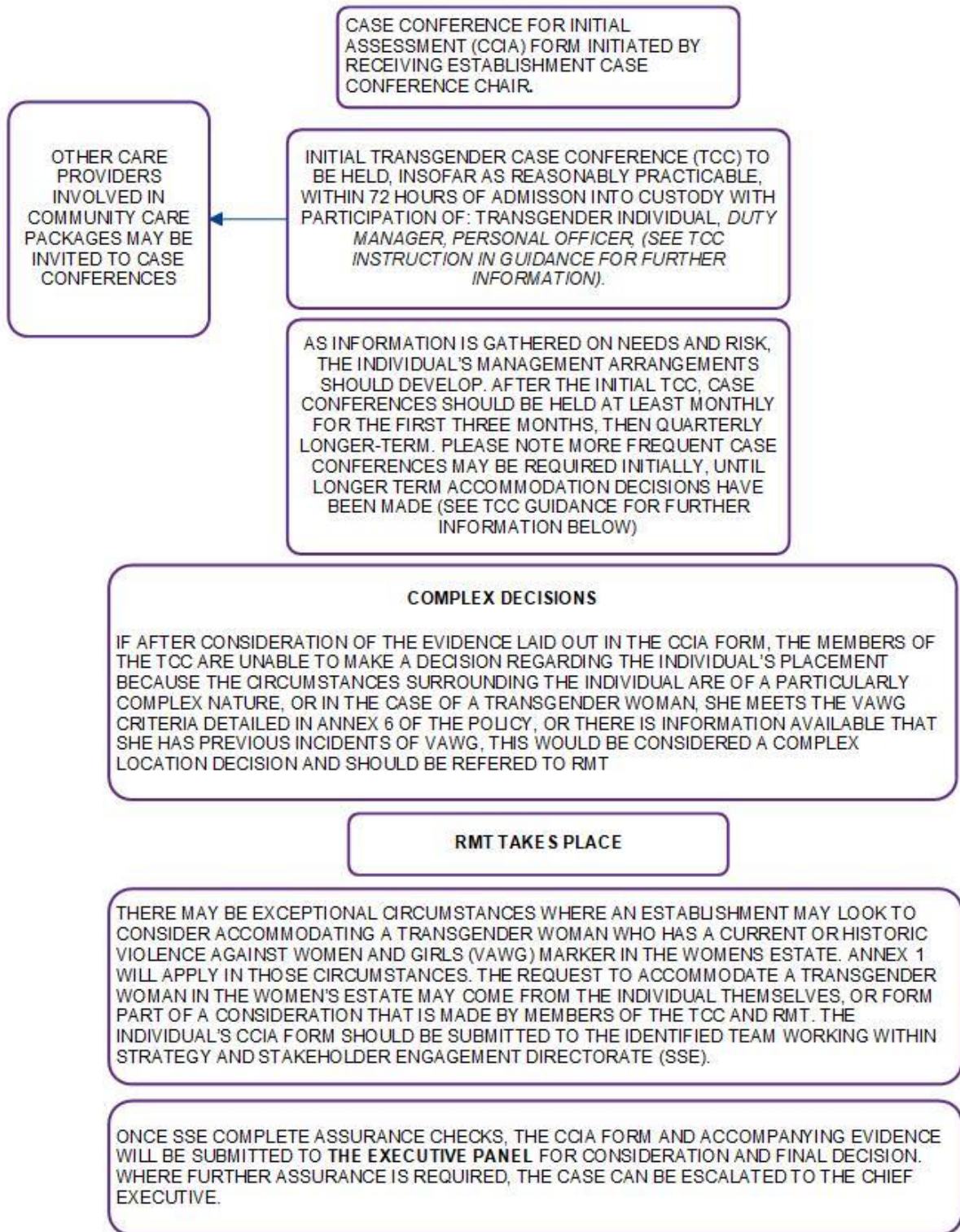
IF A DECISION IS REACHED TO ADMIT TO AN ESTABLISHMENT THAT DIFFERS FROM THE LOCAL ADMITTING PRISON THE LOCATION ASSESSMENT FORM SHOULD BE SENT TO THE RECEIVING ESTABLISHMENT

LOCAL ADMITTING ESTABLISHMENT LIAISE WITH SCOTTISH COURT CUSTODY AND PRISONER ESCORT SERVICES (SCCPES) CONTRACT PROVIDER TO ARRANGE TRANSFER TO APPROPRIATE ESTABLISHMENT.

DUTY MANAGER INFORMED AND DECISIONS MADE ON MANAGEMENT PLAN FOR FIRST 24 HOURS IN CUSTODY. INITIAL CONSIDERATIONS SHOULD INCLUDE MENTAL WELLBEING, CELL ALLOCATION, RULE 95, INTELLIGENCE & ITEMS IN USE.

TRANSGENDER PERSON ASSESSED BY NHS AS SOON AS POSSIBLE ON ADMISSION TO CUSTODY.

Longer Term Management Decisions



1. INTRODUCTION

The purpose of the new *SPS Policy for the Management of Transgender People in Custody* is to ensure the rights and needs of transgender people are protected while also ensuring a safe and inclusive environment for everyone in the care of SPS and those who work here. This means that additional steps and considerations need to be made for those who have transitioned or are in the process of transitioning. These additional considerations are outlined in this guidance document.

Please note, this guidance applies to transgender individuals. Separate guidance is available for managing gender diverse individuals in custody.

2. USING THIS DOCUMENT

This operational guidance document should be read in conjunction with the main policy document. The policy outlines the overarching position and principles. This guidance document provides the operational direction for staff when managing and making decisions about someone who has transitioned, or is in the process of transitioning, to a gender which is different from that associated with their sex assigned at birth.

Each individual and their circumstances are unique. This guidance outlines the processes that are necessary for all transgender individuals, as well as considerations for scenarios where an individualised approach should be taken.

This document should also be used in conjunction with existing standards, processes and procedures. It does not replace standard operating procedures (SOPs) in place in establishments but contains additional guidance and considerations for managing someone who has transitioned or is in the process of transitioning.

Entering a custodial environment can be a stressful time and can bring on feelings of anxiety and apprehension. For transgender individuals, being admitted into custody can bring additional anxieties that we should take cognisance of, for example, fears of transphobia and anxieties about the ability to access medication and healthcare to aid transition, and the ability to live and express one's affirmed gender safely.

3. ADMISSION

3.1 Prior to admission

SPS requires the Scottish Court Custody and Prisoner Escort Services in Scotland (SCCPES) contract provider to follow its instructions and policy regarding for the management of transgender prisoners, including:

- following specific instructions about how to refer to the gender of transgender individuals in its custody (see section 6.4 of this document)
- the gender of staff to search transgender people in custody (see section 4 of this document).

In the event that a transgender person attends court and is admitted into or returned to custody, the SCCPES contract provider should contact the local admitting prison prior to transfer to initiate an immediate assessment of where to admit that individual.¹

The following steps should be taken once the local admitting prison receives such a phone call:

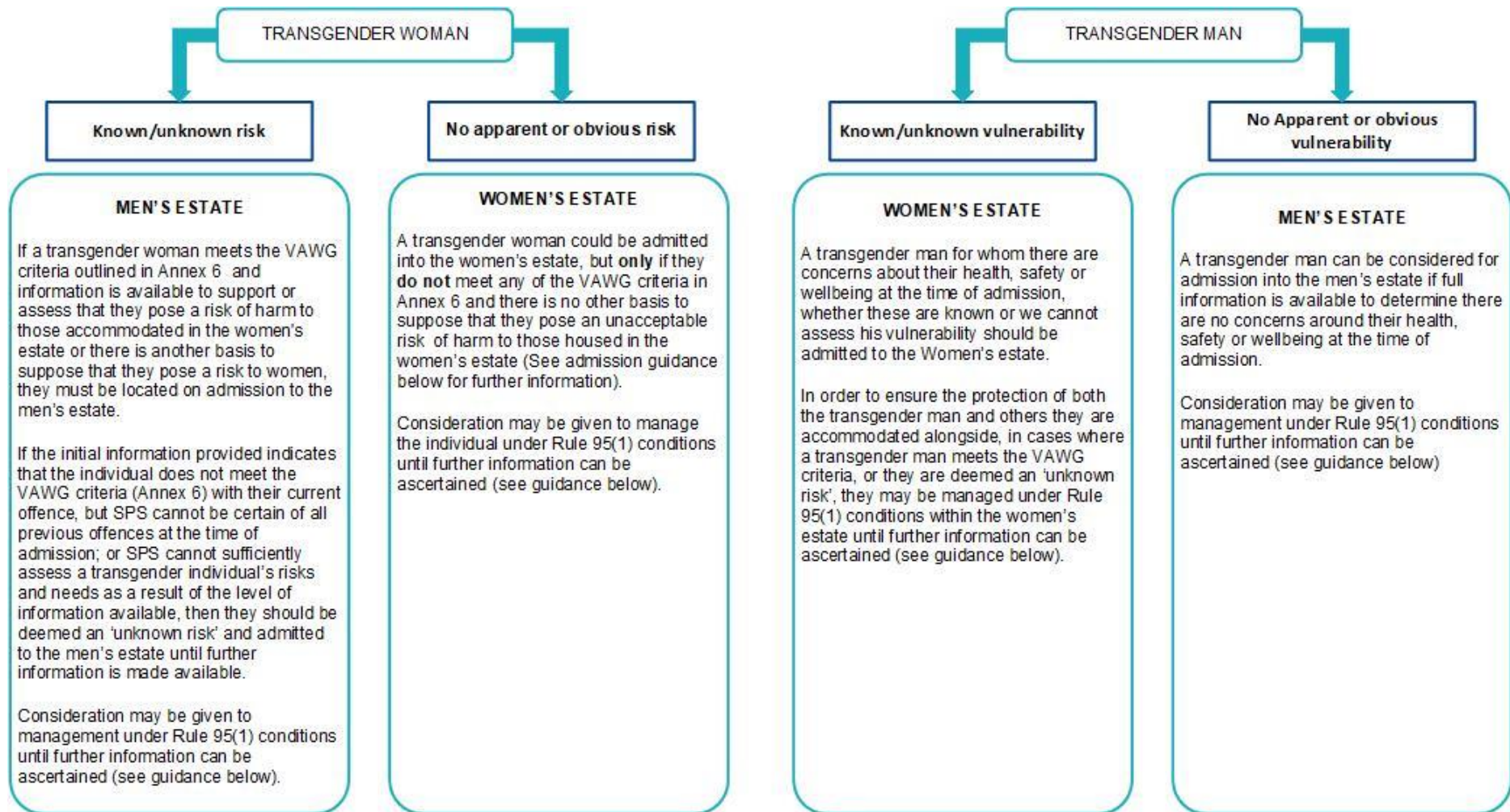
- The Reception Manager who receives that phone call should initiate a Transgender Admission form (Annex 2). Initially, as much information on the individual should be gathered as possible. A series of questions have been annotated on the form for consideration for an initial discussion with colleagues and, where necessary, the individual.
- Once that initial discussion has taken place, the local admitting prison's Duty Manager should be contacted and informed of the situation and what information has been provided.
- The Duty Manager should then inform their Deputy Governor and Head of Operations, and then the HQ Duty Manager, of the information that has been gathered at this stage. A discussion should be undertaken locally between senior management colleagues on whether the individual should be located in the women's estate or the men's estate.
- If enough information has been provided to make a decision on whether an individual should be admitted to the men's or women's estate, then the decision and rationale should be documented on the Transgender Admission Form and signed by the Duty Manager. Further information on the decision-making criteria can be found in section 3.2 initial accommodation decisions below.
- There may be occasions where not enough information has been provided to be able to discuss the individual's initial placement, therefore the Duty Manager should contact the court to ascertain whether further information can be provided by them at this point. If that is not possible, then this individual should be classed as an 'unknown risk' and relevant decisions should be made as explained in section 3.2 initial accommodation decisions below.
- Once the initial assessment has been made by the local admitting prison, the HQ Duty Manager should be informed of the decision.
- If the local admitting prison makes the decision not to accept the individual for reasons cited in section 3.2 initial accommodation decisions, that prison's Duty Manager should contact the most appropriate receiving establishment to inform them of the decision and ensure that they have availability to admit the individual. If there are significant issues that cannot be addressed between the local admitting prison and the receiving establishment, the HQ Duty Manager should be contacted.
- The Transgender Admission Form (Annex 2) should be sent electronically to the receiving establishment's Duty Manager.
- The local admitting prison is responsible for liaising with the SCCPES contract provider to divert the individual to the appropriate prison.

¹ SCCPES should always contact the local receiving establishment no matter the affirmed gender or sex assigned at birth of the transgender individual.

- If the local admitting prison is contacted after the Governor and Deputy Governor have concluded their working day, the HQ Duty Manager should be contacted immediately to discuss.

3.2. Initial accommodation decisions

At the point of admission into SPS custody the location of a transgender individual should be considered on an individualised basis as far as possible. However, there may be limited information about a transgender individual when they first arrive in SPS custody meaning that initial placement may be different to where they are located longer term. See the flowchart below for instructions on how to make decisions on initial placement for transgender men and women:



No apparent or obvious risk/vulnerability

Transgender women

A transgender woman should be considered for admission into the women's estate in circumstances where she does not meet the violence against women and girls (VAWG) criteria outlined in Annex 6, and there is no other basis to suppose that she poses an unacceptable risk of harm to those housed in the women's estate. Consideration should also be given to any other factors which may indicate risk of harm to those housed in the women's estate. The following factors may also influence the decision as to where a transgender woman is located including:

- Any relevant intelligence SPS has on the individual
- Additional information provided by external partners on incidents that may not have resulted in a police charge
- Any other relevant information

If a transgender woman falls under any of the following criteria, then she should be considered for admission to the women's estate:

- she does not meet the VAWG criteria outlined in Annex 6
- she does not demonstrate an unacceptable risk of harm to those housed in the women's estate (including, but not limited to, any evidence under the above three bullet points) or
- she has previously been managed successfully by SPS in the women's estate based on a multi-disciplinary assessment of both risk and need

Transgender men

A transgender man should be considered for admission into the men's estate if there are no concerns that his health, safety or wellbeing would be put at risk and if he has previously been managed successfully by SPS in the men's estate based on a multi-disciplinary assessment of both risk and need.

Known or unknown risk/vulnerability

Transgender women

If a transgender woman meets the VAWG criteria outlined in Annex 6 or there is another basis to suppose that she poses a risk to women, she must be located on admission to the men's estate.

If the initial information provided indicates that the individual does not meet the VAWG criteria (Annex 6) with their current offence, but SPS cannot be certain of all previous offences at the time of admission; or SPS cannot sufficiently assess the transgender woman's risks and needs as a result of the level of information available, then she should be deemed an 'unknown risk' and admitted to the men's estate until further information is made available .

From the point of admission all necessary information should be gathered to populate Annex 3 the Case Conference for Initial Assessment form (CCIA), as far as possible. The contents of the form will be discussed at the Transgender Case Conference (TCC), the first of which will be held, insofar as reasonably practicable, within 72 hours

from the person's admission to custody in order to make an informed placement decision.

Transgender men

A transgender man should be admitted into the women's estate if there are concerns around risks to his health, safety or wellbeing at the time of admission or risks to health, safety or wellbeing of others were they to be admitted to the men's estate. In order to ensure the protection of both the transgender man and others that he is accommodated alongside, in cases where a transgender man meets the VAWG criteria outlined in Annex 6, or there is another basis to suppose they pose an unacceptable risk of harm to women, or they are deemed an 'unknown risk', he may be managed under Rule 95(1) conditions within the women's estate until further information can be ascertained to make an informed placement decision at the TCC, the first of which will be held, insofar as reasonably practicable, within 72 hours from admission.

If staff have any concerns about the admissions process, they can contact their line manager for clarification, the HQ Duty Manager can also provide additional support if required.

Entering a custodial environment can be a stressful time and for many, including for transgender individuals, it can bring on feelings of anxiety and apprehension. This should be considered as part of the Talk to Me Reception Risk Assessment initiated and completed by reception staff and the health care team. The Duty Manager should also take this into account when determining initial cell allocation.

3.3 Reception process

Upon arrival of a transgender individual into custody, the Reception First Line Manager should contact the establishment's Duty Manager and inform them that the individual has arrived.

The name, title and pronouns used by the transgender individual should be used in all verbal communications with and about the person in custody, even where these do not correspond with the details recorded on the warrant. If the details on the warrant appear incorrect, then the Reception First Line Manager should seek advice from the relevant Duty Clerk in the Scottish Court System.

To avoid potentially outing the individual (disclosing personal, sensitive or confidential information that may reveal that the individual is transgender), reception staff should not discuss any personal details of the transgender individual in front of other people in custody.

The FLM and Duty Manager should discuss the most appropriate cell allocation for the individual. This is further explained in the *Cell Allocation* section below.

3.4 Talk to Me

As stated above, entering a custodial environment can be a stressful time, and can bring on feelings of anxiety and apprehension. For transgender individuals, being admitted into custody can bring additional anxieties that SPS should take cognisance of, for example, fears of transphobia, the ability to access medication and healthcare to aid transition, and the ability to live and express one's affirmed gender safely. This may be especially the case for a transgender individual who is being admitted to a prison that does not align with their affirmed gender and they may experience severe anxiety or suicidal ideation as a result. This should be taken into account in the early admission process as part of the Talk to Me Reception Risk Assessment conducted by reception staff and the health care team. The Duty Manager should also take this into account when determining initial cell allocation.

3.5 Cell Allocation

A transgender person in custody may remain in first night facilities for longer than one night to enable better assessment of how to manage their safety in mainstream accommodation.

The Reception FLM and Duty Manager should consider which residential area is the most appropriate for the individual to be located to. A transgender person in custody must be placed in single cell accommodation until full consideration can be made at the initial TCC.

The initial allocation of a transgender individual is considered as a period of assessment. If there are concerns about risk to the individual from others or a risk presented by the transgender individual to others, or they are an unknown risk, then consideration can be given to whether it is appropriate to place them on Rule 95(1) conditions until further information and evidence can be gathered and a TCC is held. Prisoners may also be held under specific conditions under rule 41(2) of the Prison and Young Offender Institutions (Scotland) Rules 2011 where the conditions have been recommended by a healthcare professional.²

Restrictions to association with other people in custody should be avoided wherever possible. Where a person in custody is held out of association, defensible decisions must be recorded and authorised by a senior manager and Operations Directorate if this is for more than 72 hours. Case management information must be updated weekly where a person in custody is held out of association.

Risk-assessed decisions regarding a transgender individual's accommodation up until the initial TCC should be reviewed throughout the 72-hour period.

3.6 Immediate actions for the first night in custody

The receiving establishment's Duty Manager, in conjunction with the Reception and Residential First Line Managers, should establish any immediate actions that need to

² Rule 41.— (2) For the purpose of this rule "specified conditions" include, but are not limited to—
(a) accommodation in a specified part of the prison,
(b) accommodation separate from other prisoners, and
(c) confining the prisoner to his or her own cell.

be taken for the individual's first night in custody. This should be annotated in section 8 on the Transgender Admission Form (Annex 2). Details on when the initial TCC will take place should be recorded in section 9.

The Duty Manager should then sign the end of the form and ensure that it is readily available for using as part of the initial TCC discussion.

3.7 Recording data on PR2

It is important that information about everyone in custody is recorded accurately and consistently. Information relating to a person's gender identity should be collected, stored and shared in a responsible way to ensure that appropriate and defensible decisions can be made to support individuals and assist in the security of the prison population.

Entering name on PR2

The name on the warrant should be entered into PR2.

Once an individual's preferred name and pronouns have been established staff should accurately record this information on the Prisoner Records System (PR2) in order to ensure the individual's preferred name and pronouns are respected during their time in custody.

Prisoners who have used official processes to change their name.

When a prisoner has officially changed his or her name and evidence has been provided confirming it has been done, which may include a Statutory Declaration, Birth Certificate, Deed Poll document if registered in England, Marriage/Civil Partnership Certificate or a Gender Recognition Certificate, SPS must give effect to the change of name by addressing the prisoner by his or her new name and ensuring all records, including PR2 but with the exception of documents issued by the Courts e.g. warrants, are in his or her new name. It is acceptable however to annotate his or her PR2 profile with their previous name within the 'alias' domain on PR2.

Prisoners who wish to be known as a new name but have not used an official process to do so.

SPS will consider requests by a prisoner to be known by a new name where that name has not been officially changed. This requires discussion at a Transgender Case Conference (TCC) and approved by the Governor in Charge or Deputy Governor, who may order that the new name is not to be recognised if it is necessary for maintaining good order or discipline in the prison or if the purpose of the name change is considered vexatious.

Where the name change is approved by the Governor in Charge or Deputy SPS will from that date address him or her verbally by his or her new name however:

- His or her records, both paper and electronic, will continue to be held in his or her legal name but annotated with the new name (the alias domain on PR2 should again be used).

- It is feasible to use the phrase “the prisoner legally known as X, who has requested to be known as Y” on SPS paperwork.

If a prisoner subsequently officially changes his or her name and evidence has been provided confirming this has been done, their records should be amended accordingly.

When a name is changed in PR2 a box appears asking if the change is a ‘Correction’ or an ‘Alias’. If ‘Correction’ is chosen it will overwrite the current name held, if ‘Alias’ is chosen it will put the current name into the Alias table and retain the newly entered name on the front screen of PR2.

See GMA 052A-15 for further information: [T-Notices - 052A-15.pdf - All Documents \(mcas.ms\)](#)

Recording gender on PR2

The Reception First Line Manager should sensitively ask the person in custody to clarify in private how they self-identify their gender.

If the individual states that they possess a Gender Recognition Certificate (GRC) this may be recorded in PR2 if considered necessary to their management

To enter information relating to an individual’s gender reassignment, the following should be completed on PR2:

1. Enter the individual’s Prisoner No.
2. Click ‘**Prisoner**’ on the top ribbon, this will produce a drop-down list.
3. On the ‘Prisoner’ drop down list, click on ‘**Gender Reassignment**’ which will produce a gender reassignment personal data table.
4. In the gender reassignment personal data table, the approximate start date of their transition, and the date of issue on any Gender Recognition Certificate seen, should be entered.

Please note, it can be an offence to disclose that another individual has applied for a GRC, that they have one or, if they do have one, their gender history. This is known as protected information. Officers should seek and obtain the individual’s consent to share the information about the individual’s GRC and ensure this consent is informed (the individual knows how the information will be used and accessed and for what purpose). If the prisoner does not consent, or their consent cannot be obtained, their protected information may still be disclosed to other staff in the prison, or to justice social workers, the Parole Board or others, if that disclosure is necessary for certain purposes. This includes supervising or managing that individual in the prison or the community, supporting the Parole Board in their consideration of that prisoner for release or for other offender management purposes. **Officers should not ask individuals if they have a GRC as this may be discriminatory and a violation of the right to private life. No one is obliged to divulge possession of a GRC.**

If there is **no evidence** that the person in custody is proposing to transition or has begun transitioning to start living in a different gender from that assigned at birth, then a staff member should enter the person in custody on the PR2 computer system as the gender that aligns with their birth sex.

Where there is any evidence that the person in custody has begun transitioning to live in a different gender from that assigned at birth then a staff member must enter the person in custody on the PR2 computer system as the affirmed gender they are living in and record them as having the protected characteristic of gender reassignment as outlined above.

It is important that information about everyone in custody is recorded accurately and consistently. Information relating to a person's gender identity should be collected, stored, and shared in a responsible way.

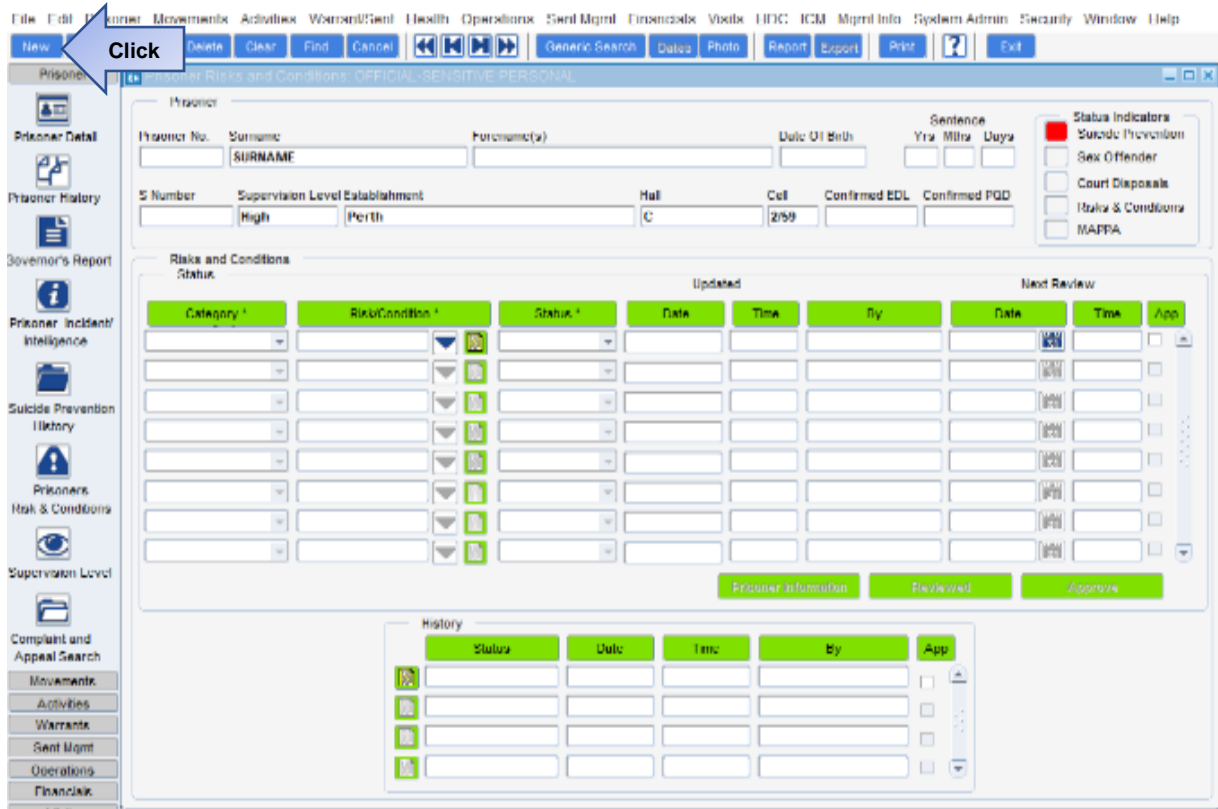
Upon establishing an individual's transgender status, reception staff should also update the individuals PR2 record to reflect their gender identity. This is noted under 'Prisoner Risks and Conditions' and is to ensure that appropriate decisions can be made to support individuals and assist in the security of the prison population.

Gender Identity Marker

Enter Prisoner No. and click the **Prisoners Risk & Conditions** screen.

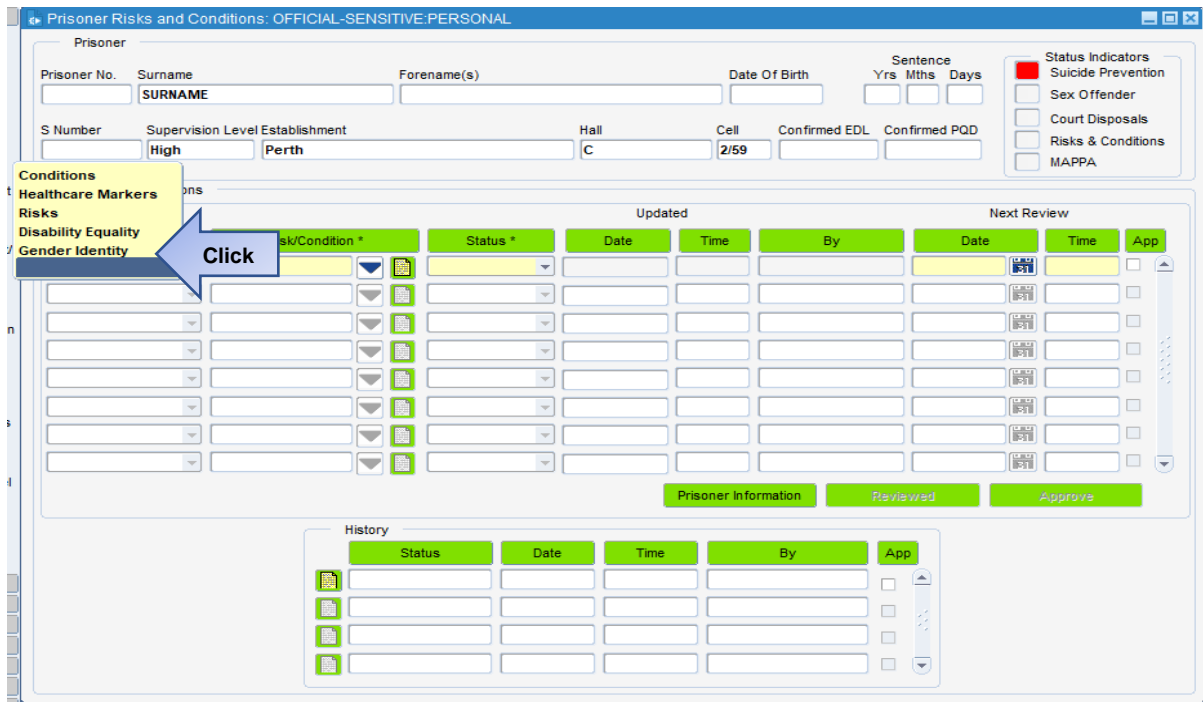
The screenshot shows the PR2 Prisoner Detail software interface. The left sidebar contains a navigation menu with items like 'Prisoner Detail', 'Prisoner History', 'Governor's Report', 'Prisoner Incident/Intelligence', 'Suicide Prevention History', 'Prisoners Risk & Conditions', 'Supervision Level', 'Complaint and Appeal Search', 'Movements', 'Activities', 'Warrants', 'Sent Mgmt', 'Operations', 'Financials', 'Visits', and 'HDC'. The 'Prisoners Risk & Conditions' item is highlighted with a blue arrow and the word 'Click'. The main window displays a form for a prisoner's details, including fields for Prisoner No., Surname, Forename(s), Date of Birth, Sentence (Yrs, Mths, Days), S Number, Supervision Level, Establishment, Hall, Cell, Confirmed EDL, Confirmed PQD, Custody Status, Legal Status (Untried), Prisoner Funds (PPC, Wages), Personal Officer, HDC Qualification Date, Sentence Category, Local Authority, and Other Status Indicators (Remand Sexual Offence, Subject to VNS, Escape/Abscond Risk, Removed from Association). There are also sections for 'Upcoming Appointments' and 'Assigned Work Party'.

The screen below will appear, click '**New**' on the menu ribbon to enter the Gender Identity marker:



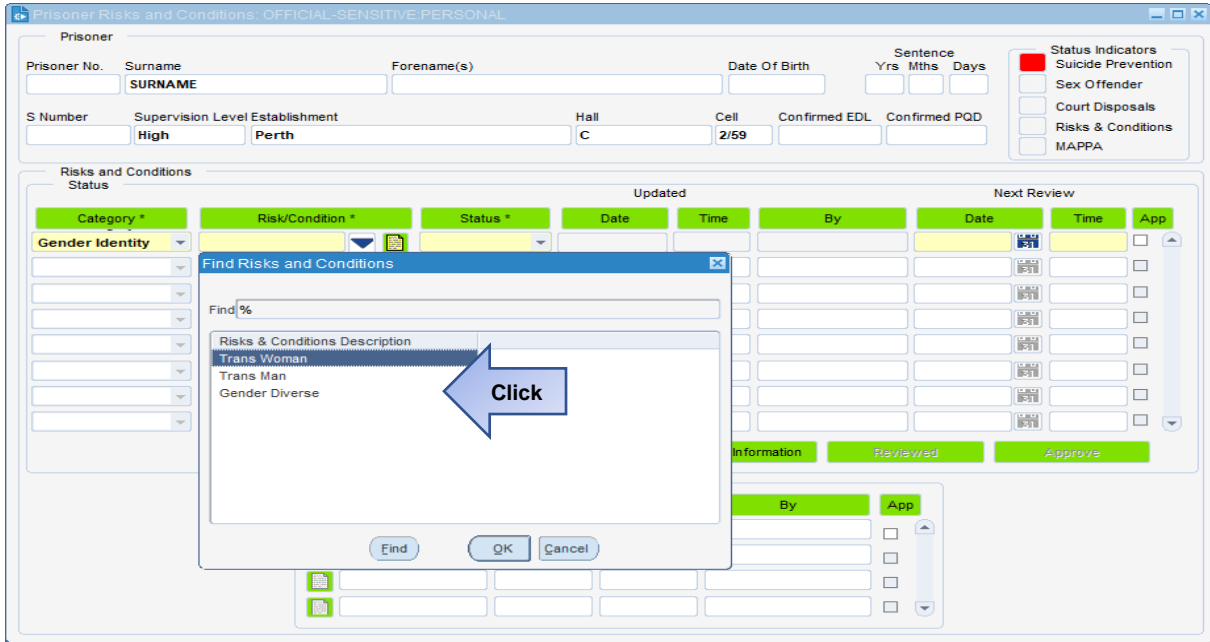
The screen will enter a new row within the data highlighted in yellow. Complete each section as below:

Choose **Gender Identity** in the Category section.

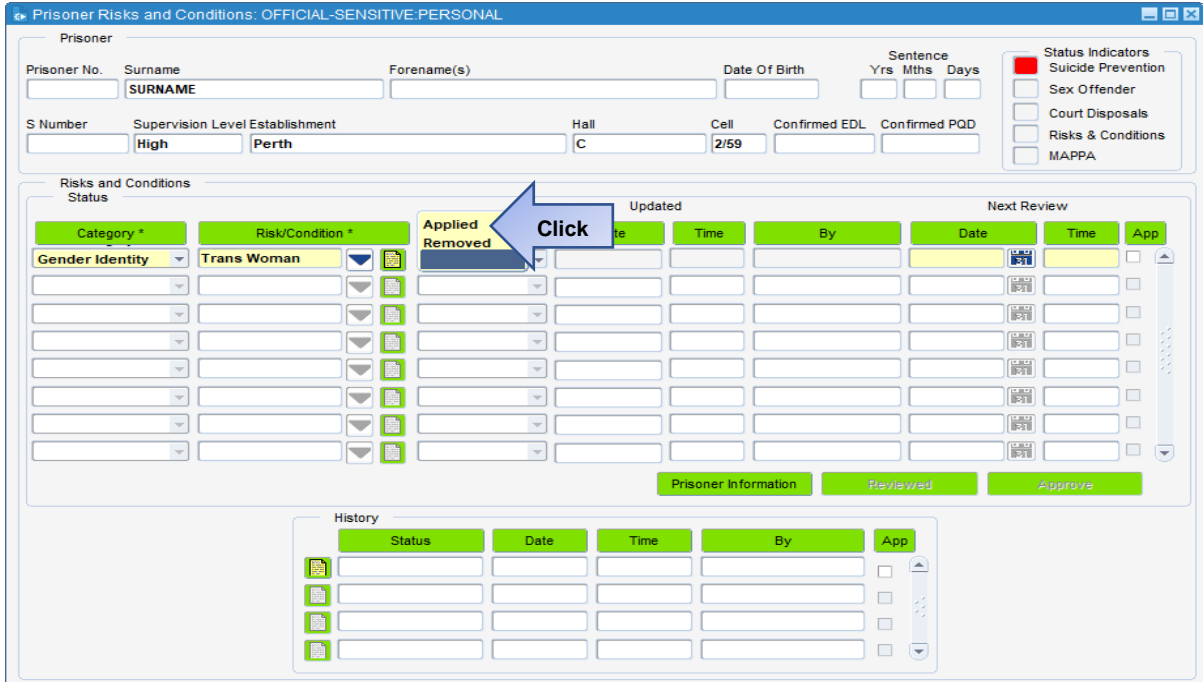


Choose the applicable Affirmed Gender from the criteria in the Risk/Condition section:

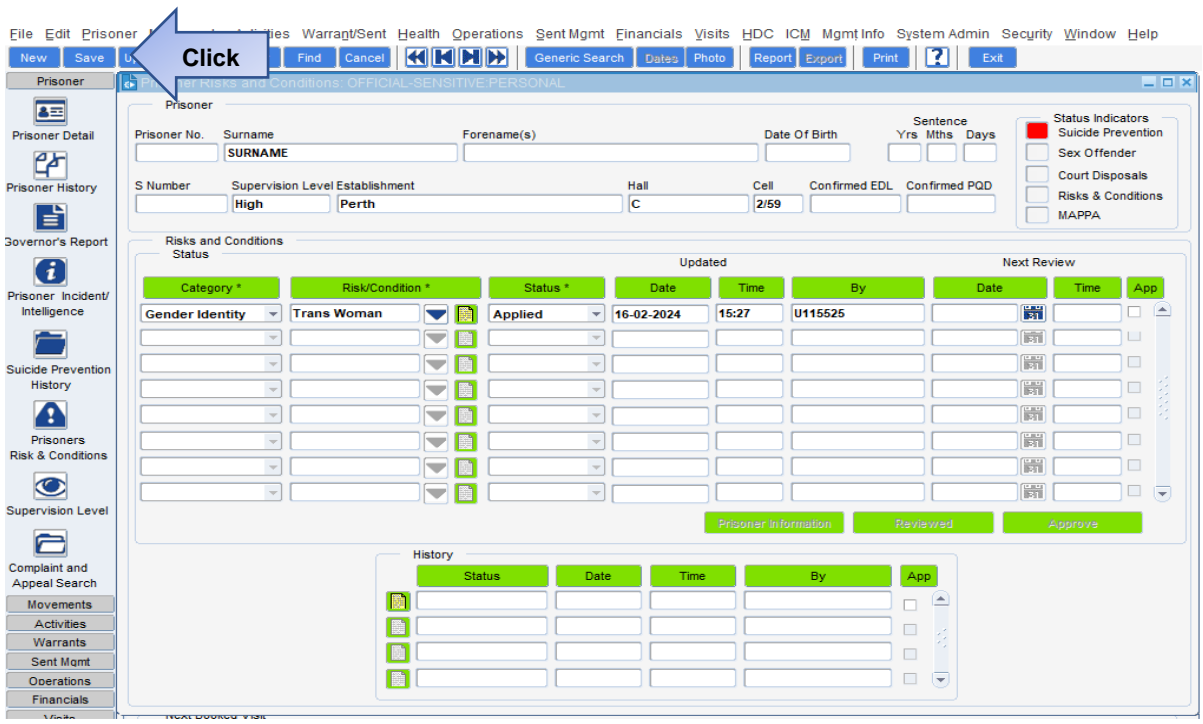
- Trans Woman
- Trans Man
- Gender Diverse



Click **Applied** in the Status field:



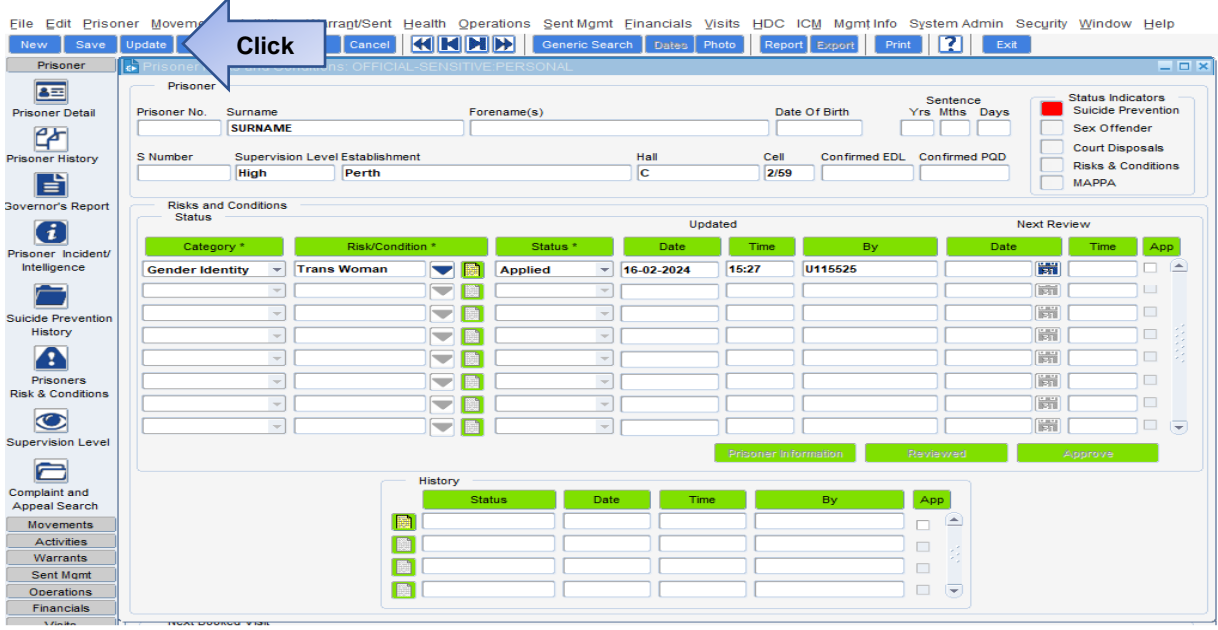
Click **Save** on the top menu ribbon.



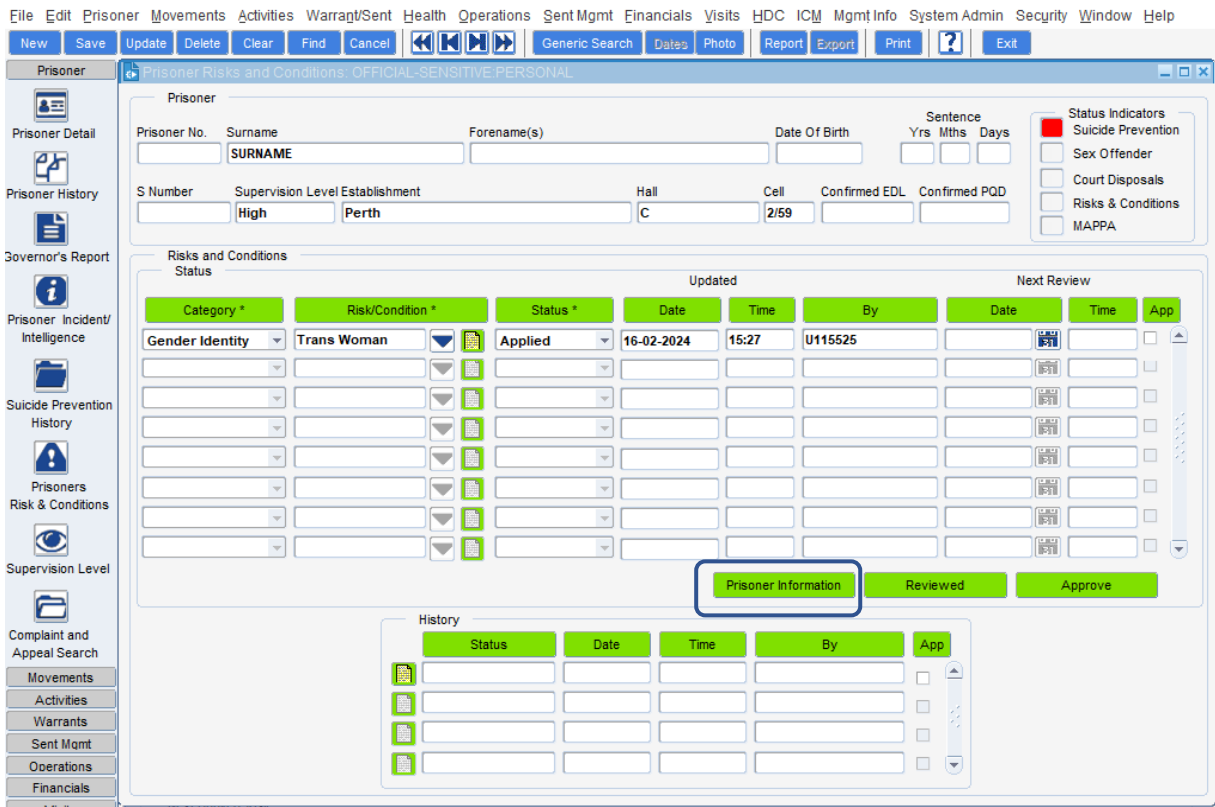
The message below will show, confirming the marker has been applied:



Once saved, click on the Gender Identity row, click **Update** on the top menu ribbon to add the mandatory prisoner information:



The Prisoner Information button will then become active, click **Prisoner Information**:



The below box will then appear on the screen:



Type in the mandatory criteria in the free text box:

- Sex Assigned at Birth
- Affirmed Gender

- Preferred Name

Once complete, click **OK** to save the information. The Prisoner Information button will show in red once this has been saved.

Any other supporting information can be entered within the Prisoner Information screen, but the necessity of this should be considered on a case-by-case basis.

Staff should not discuss any personal details relating to the transgender individual in front of other people in custody.

4. SEARCHING

National Searching Protocols should be followed for all individuals who are in the care of SPS. There are additional considerations that should be made when searching a transgender individual.

In line with the processes outlined for the initial admission of a transgender individual into SPS custody, searching arrangements should be considered on an individualised

basis as far as possible. A transgender individual should be searched in line with their affirmed gender unless they request otherwise and/or unless there are overriding risks or concerns including the individual's or officer's health, safety or welfare, or in relation to the security or good order of the prison which cannot be mitigated.

During all body search processes, the person in custody should be sensitively asked to remove any items such as prosthetics, wigs or chest-binders to enable the skin underneath to be seen.

The items removed must be searched to ensure they have not been tampered with. Care should be taken to avoid accidental damage and the items must be returned to the individual immediately once they have been searched. Sufficient time must be provided for the person in custody to replace the items and a mirror provided if required.

No matter the outcome of the searching decision arrived at, the individual should be searched in a way which ensures the dignity and privacy of the individual, while also ensuring that searching protocols are being adhered to and that the search is effective.

4.1 Searching decisions at admission.

Upon admission, a transgender individual should be searched in line with their affirmed gender identity unless the individual requests to be searched in line with their sex assigned at birth and/or unless there are overriding risks or concerns, including to the health, safety or welfare of the individual or staff carrying out the search or to the security or good order of the prison.

The Officer should discuss the searching process with the individual and ensure they are sufficiently informed of the immediate arrangements and the process outlined below regarding longer-term searching decisions to be decided at the initial TCC.

If the individual is to be searched in line with their sex assigned at birth, officers should record this on Part 1 of the Searching and Sampling Arrangement form (Annex 4).

All subsequent searches in the period before the initial TCC takes place should be conducted in line with this arrangement.

4.2 Searching and sampling decisions at TCC.

Decisions about searching and sampling should be discussed and reviewed at the initial TCC which should be held, insofar as reasonably practicable, within 72 hours of a transgender individual's admission into custody.

A transgender individual should be searched in line with their affirmed gender identity unless the individual wishes to be searched in line with their sex assigned at birth and/or unless there are overriding risks concerning the health, welfare or safety of the individual or staff carrying out the search. If an individual asks to be searched in line with their sex assigned at birth, this should be recorded in Part 2 of the Searching and Sampling Arrangement form (Annex 4) and this should be signed by the individual and by the Unit Manager chairing the case conference.

Any evidence which has been gathered in advance of the initial TCC or any behaviour from the individual since they were admitted to custody which indicates that it is

necessary to search the individual in line with their sex assigned at birth because of overriding risks concerning the individual or the officers conducting the search should be discussed and recorded at the initial TCC. It is important to note that transgender individuals not housed in an estate which aligns with their affirmed gender may still be searched in line with their affirmed gender if there are no overriding risks to health, safety or welfare of the individual or staff carrying out the search or to the security or good order of the prison.

All subsequent searches of the individual should be conducted in line with the Searching and Sampling Arrangement form.

The Searching and Sampling Arrangement form aims to ensure documented decision making so that a transgender individual is searched according to the decided process. This document can be updated and amended as required if evidence arises that may alter a person's risk profile and suitability to be searched by an officer of the same or a different gender.

The decision and evidence detailed in the Searching and Sampling Arrangement form should be uploaded to PR2.

4.3 Compulsory testing for controlled drugs and alcohol

The process for compulsory testing for drugs and alcohol should follow the same process for searching and be considered on an individual basis as far as possible. As long as it is operationally feasible, a transgender individual should not be required to provide a sample in the sight of a person of the opposite gender unless they have requested this and/or unless there are overriding risks concerning the individual's or the officer's health, welfare or safety or the security or good order of the prison which cannot be mitigated.

As with decisions about searching, decisions regarding sampling should be recorded in Part 3 of the Searching and Sampling Arrangement form (Annex 4) and signed by both the individual and the relevant Unit Manager and also noted in the TCC minutes (Annex 5).

Any evidence which has been gathered regarding the individual's behaviour since they were admitted to custody which indicates that overseeing a sample given by the individual in line with their affirmed gender may cause an overriding risk concerning the health, welfare or safety of the individual or the officers conducting the search, or the security or good order of the prison should be discussed and recorded before the sample is given. As with searching, the decision not to oversee a sample in line with their affirmed gender identity is not the same as the decision not to place an individual in the estate which aligns with their affirmed gender. For transgender individuals not housed in the estate which aligns with their affirmed gender, it may still be considered appropriate for them to give a sample in front of an officer of their affirmed gender.

All subsequent occasions for giving a sample should be managed in line with the Searching and Sampling Arrangement form. As noted above, this document can be updated and amended as required if evidence arises that may alter a person's risk profile and suitability to give samples in sight of an officer of the same or a different gender.

4.4 Staff concerns

Searches should be conducted in line with these guidelines. Any concerns from officers regarding searching or sampling procedures for transgender individuals should be discussed with a line manager or with the local human resources. Staff members may also involve the local chaplaincy team in these discussions. The purpose of these meetings is to provide staff with an opportunity to raise any personal concerns. Concerns will be acknowledged and managed on a case-by-case basis where the concern will be discussed in a supportive manner, and if necessary, a plan put in place to respond to the concerns.

This guidance is consistent with the [Dignity at Work policy](#) and other searching policies.

5. TRANSGENDER CASE CONFERENCE (TCC)

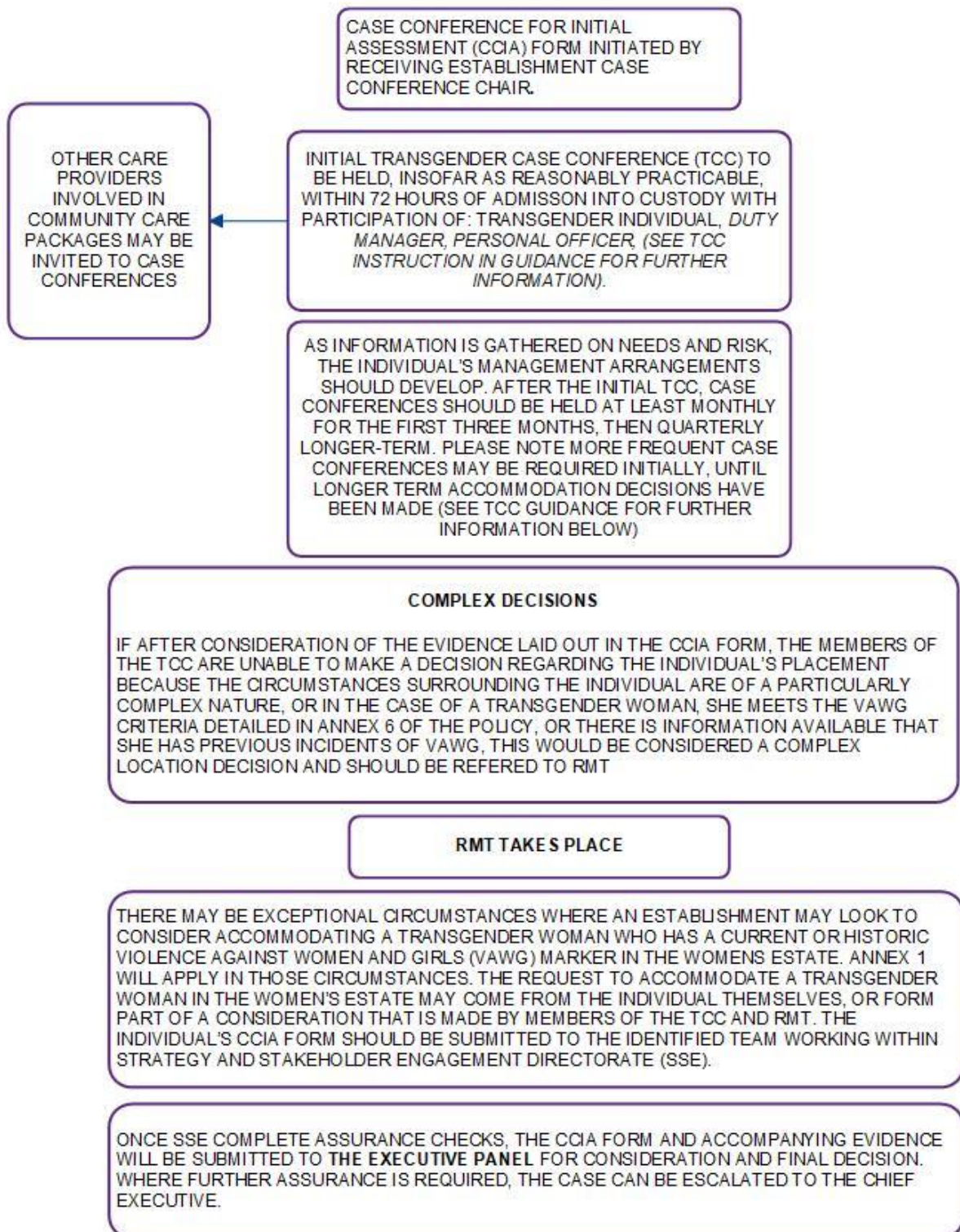
In order to ensure the needs and rights of transgender people are met and protected while also ensuring a safe and inclusive environment for everyone in the care of SPS and staff, SPS has developed a case conference model to manage transgender people in custody on an individualised basis which adopts a multidisciplinary assessment of risk and need.

The TCC process has been designed to allow staff and transgender individuals the opportunity to discuss their placement, accommodation and other aspects of their management while in SPS custody.

A Case Conference for Initial Assessment (CCIA) form (Annex 3) should be completed for all transgender prisoners entering custody. It has been designed explicitly for the purpose of considering transgender individuals' placement in a prison which aligns with their affirmed gender. The option for a transgender person to be accommodated in an estate which aligns with their affirmed gender should be discussed with the individual upon admission to custody and they should be informed of the process involved.

Irrespective of the placement and management decisions reached in the TCC, a person's gender identity, name and pronouns must be respected and used at all times and SPS must support transgender individuals to live in their affirmed gender.

Longer Term Management Decisions



5.1 Case Conference for Initial Assessment Form

The CCIA form provides a guide on what information should be gathered to inform placement and accommodation decisions for transgender people in custody, and this

template should be used for the initial TCC and any subsequent TCCs that take place in relation to location decisions.

A CCIA form should be completed for a transgender individual in custody where SPS believes they could be considered for placement in the estate which aligns with their affirmed gender or for any transgender individual who has requested to be placed in a prison which aligns with their affirmed gender. These decisions will be reached in a manner which seeks to protect the rights and welfare of transgender people living in Scotland's prisons and balancing those rights with the safety and wellbeing of others in custody through an evidence based decision-making processes.

The TCC chair (a relevant Unit Manager of the establishment which is scheduled to receive or already accommodates the transgender individual) should immediately initiate a CCIA form. An individual cannot be considered for a change in accommodation without completion of a CCIA form.

The CCIA form should be completed with the most up to date information available prior to the TCC commencing and updated as required with information obtained during the TCC. When completing the document, it is essential that sources of information are consistently quoted and cited. Some of this information may not be available to be discussed at the initial TCC however this should not prevent that from taking place, insofar as reasonably practicable, within 72 hours of admission or notification of a transgender person in custody.

5.2 Organising and preparing for the TCC.

The initial TCC should, insofar as is reasonably practicable, take place within 72 hours of any person entering custody who is transgender, or any person who has requested assistance to transition whilst living in custody.

Conducting the initial TCC within the 72-hour timeframe should be the priority and should not be dependent on obtaining the participation of attendees (see list below).

The Unit Manager chairing the initial TCC, should have a discussion with the individual a reasonable amount of time before the initial TCC takes place to ensure the following:

- that the individual is sufficiently informed of the purpose and format of the TCC and that they consent to take part, and,
- that the individual has enough preparatory time to discuss elements of their documentation and/or any other evidence the individual may have in their property.

The Unit Manager should also provide the individual with a written notice of when the TCC will take place in an accessible format.

The personal officer in the residential area who will be attending the TCC should engage with the individual to provide support, including assistance to help them gather the information that will be discussed at the TCC as well as inviting optional attendees (see list of participants below).

Although it is ultimately the Unit Manager's responsibility to gather evidence and information prior to the case conference, the individual may be in the best position to advise as to what evidence they can readily supply.

For individuals who request to be accommodated in line with their affirmed gender, the information required is more substantial, examples of the evidence required are noted in the CCIA form. Please note that young people, foreign nationals and British nationals who have lived abroad may not be able to produce much evidence about their gender identity. This should be carefully considered when making decisions about their placement and management. SPS should seek to ensure those individuals are not disadvantaged by an inability to produce information and evidence.

When preparing for the TCC, it is important that all participants are familiar with the SPS Policy for The Management of Transgender People in Custody and guidance and are provided with information about the individual's case, including past TCC notes (if applicable) and other relevant documentation.

Mandatory participation:

- Relevant Unit Manager (Chair)
- The individual in custody
- The individual's personal officer
- Establishment E&D Manager

If for any reason any of the above are unable to attend, this should be clearly recorded in the minutes and new time and date for a new TCC should be arranged. If, however any of the above are not able to attend an initial case conference taking place within 72 hours of a transgender individual's admission into custody or within 72 hours of an individual already in custody requesting assistance from SPS because they are considering transitioning or identifying as a different gender to that which they were assigned at birth, the TCC should go ahead, and appropriate substitutes/deputies should attend. The substitute/deputy staff should be noted in the minutes.

Optional participation:

- The individual's social worker, if they have one.
- The individual should be offered the participation of a representative from a LGBT or transgender community organisation and if the individual consents they should be invited.
- The individual may also wish to have a peer present, but their attendance is at the discretion of the Chair (any request and the decision should be recorded in the minutes).
- A representative of the local healthcare team. **In any cases where the individual is on Rule 41 or Talk to Me, a local healthcare professional must attend.**
- A member of the establishment's psychology team if relevant to the individual's case.

Consistency in who attends TCCs relating to an individual should be maintained, as much as possible.

5.3 Conducting a TCC

After the initial TCC, further TCCs should be held at least monthly for the first three months, then at least quarterly longer-term. Once all management issues relating to the person in custody's gender identity and gender reassignment appear to have been successfully resolved, the TCC frequency can switch to one review every six months, if agreed by members of the TCC including the transgender individual. If the person in custody requires additional support at any time, then monthly or additional TCCs should be resumed.

For TCCs which are making location and accommodation decisions, there may be occasions where there is insufficient information at the first meeting to allow for a decision to be reached. In such cases, a TCC should take place again within two weeks and fortnightly thereafter until all the information is available such that the CCIA form can be completed, and an informed decision can be made.

Detailed minutes should be recorded for all TCCs, including where the CCIA form is completed and discussed, and any actions/decisions made. A case conference minutes template can be found in Annex 5.

Areas of discussion during the TCC, including where the CCIA form is discussed should include:

- How the individual would like their gender to be recorded on PR2
- If there is any additional property to be accessed to help the individual live and present in their gender identity
- If additional support is needed by the individual, including mental health support and/or support from external organisations (e.g. LGBT organisations)
- If there is any requirement for access to NHS gender reassignment and support services
- Access to purposeful activity provision (programmes, classes, work parties, etc.) in line with needs and risks to support progression.
- Accommodation requests. These discussions should be informed by the CCIA form, which includes consideration of vulnerabilities and safety of the individual in question, any risk they pose to others and the individual's request. This may be an ongoing conversation that requires more than one TCC. Details of what should be included in a CCIA form can be found in Annex 3.
- Searching and sampling arrangements (see Annex 4).
- Any other issues the Chair would like to raise.
- Any other issues the individual would like to raise.

The views of the individual should be heard and considered on each area of discussion. The individual should be informed in advance of the TCC that the above issues will be discussed so they can prepare and contribute.

It may not be necessary that each of these issues and topics be discussed at every TCC, but the minutes should be completed in a comprehensive way so as to make note of any gaps and topics that were not discussed or were not applicable at the time.

5.4 Actions after the TCC

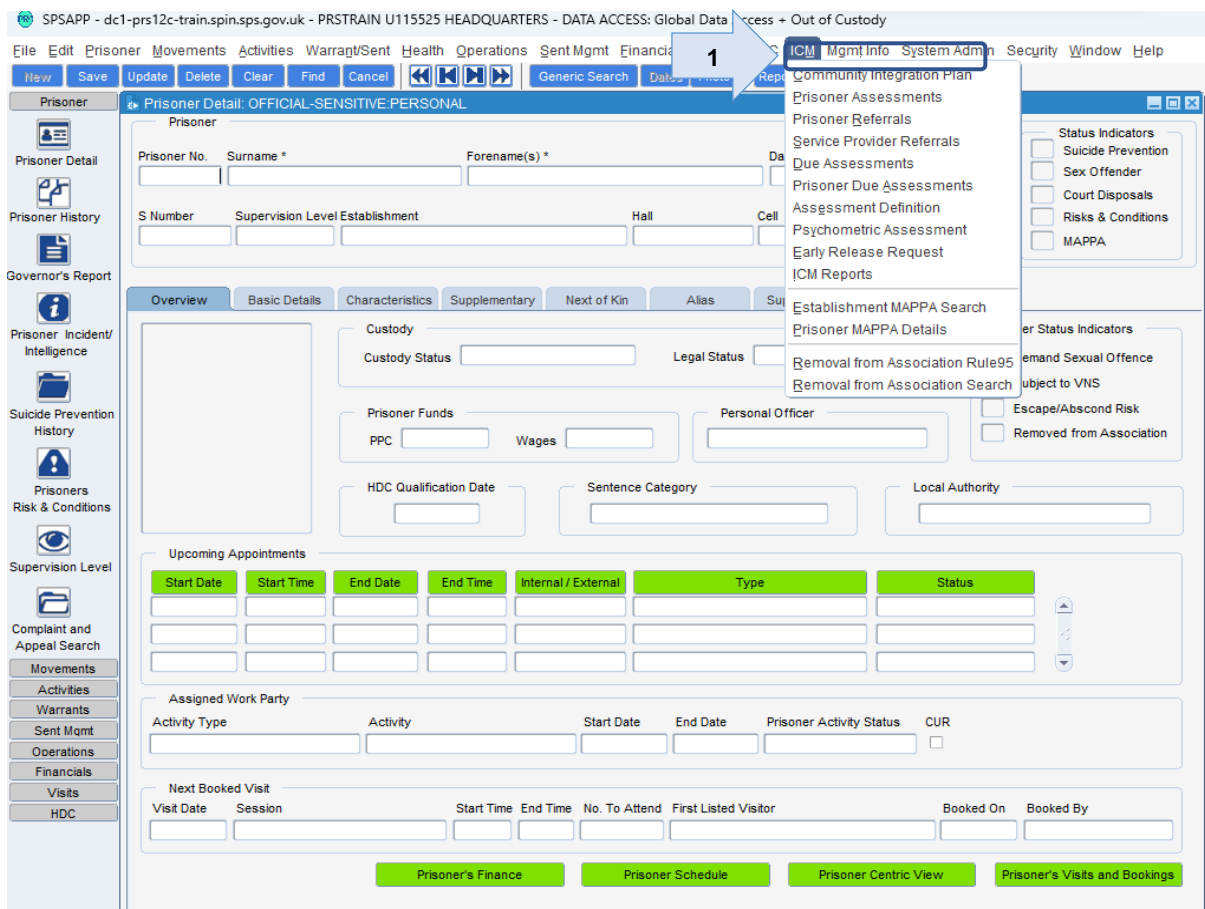
The discussion and any actions and decisions made at the TCC should be recorded in detailed meeting minutes using the template in Annex 5.

The recorded minutes of the TCC should be shared with the individual for their own information and record keeping.

Any actions taken subsequently from the TCC should also be shared in writing with the individual.

The recorded minutes should also be saved on the individual’s PR2 record as follows:

Enter Prisoner No. and click **ICM** on the top menu ribbon, select **Community Integration Plan**.



The following Community Integration Plan screen will appear:

Prisoner

Prisoner No. 160000 Surname SURNAME Forename(s) Date Of Birth 01-01-2000 Sentence Yrs Mths Days

S Number S126243/21G Supervision Level High Establishment Perth Hall C Cell 2/59 Confirmed EDL Confirmed PQD

ICM Type Enhanced Domain

Notes

Date Entered	Entered By *	Reason *	Notes *	Cur
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>

Case Conference Assessment

Click **Case Conference**.

The Case Conference screen will appear, click **New** to enter a new document:

File Edit Prisoner Movements Activities Warrant/Sent Health Operations Sent Mgmt Financials Visits HDC ICM Mgmt Info System Admin Security Window Help

New Click Clear Find Cancel Generic Search Dates Photo Report Export Print ? Exit

Prisoner

Prisoner No. 160000 Surname SURNAME Forename(s) Date Of Birth 01-01-2000 Sentence Yrs Mths Days

S Number S126243/21G Supervision Level High Establishment Perth Hall C Cell 2/59 Confirmed EDL Confirmed PQD

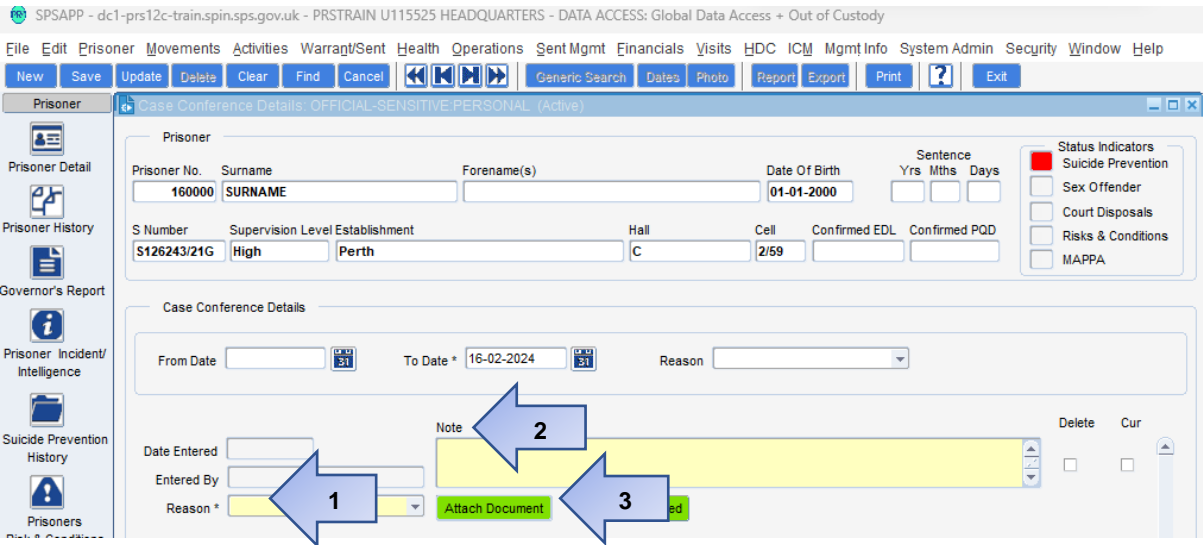
Case Conference Details

From Date To Date * 16-02-2024 Reason

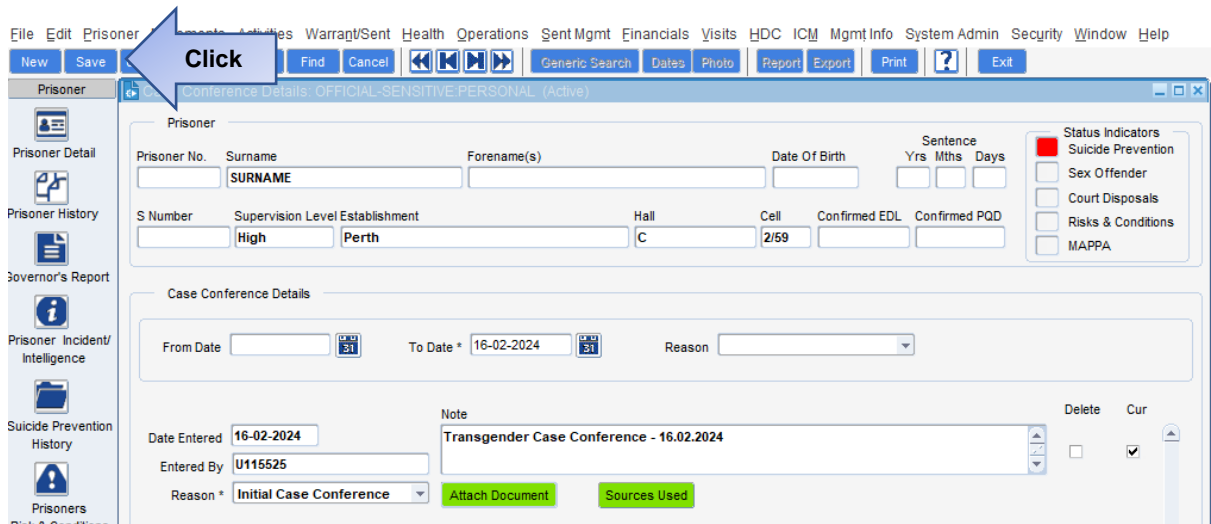
Date Entered	Entered By	Reason *	Note	Attach Document	Sources Used	Delete	Cur
						<input type="checkbox"/>	<input type="checkbox"/>
						<input type="checkbox"/>	<input type="checkbox"/>
						<input type="checkbox"/>	<input type="checkbox"/>

Confirm Deletion

A new row will appear in yellow, to allow you to enter the reason for the document being uploaded, a note to describe the document and to attach the document.

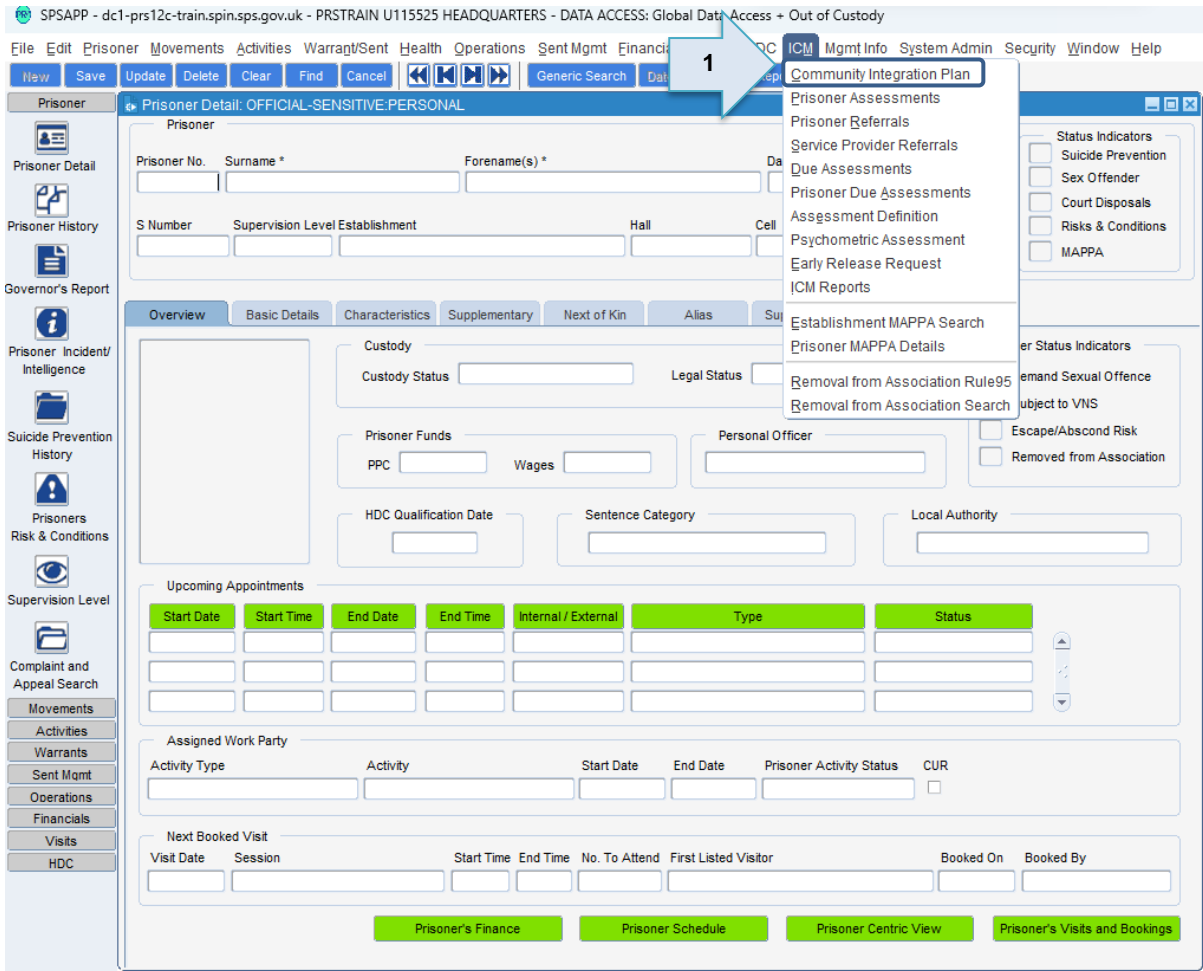


Once entered, click **Save** on the menu ribbon:



The completed CCIA form should also be saved on the individual's PR2 record as follows:

Enter Prisoner No. and click **ICM** on the top menu ribbon, select **Community Integration Plan**.



The following Community Integration Plan screen will appear:

Community Integration Plan: OFFICIAL-SENSITIVE PERSONAL

Prisoner

Prisoner No. 160000 Surname SURNAME Forename(s) Date Of Birth 01-01-2000 Sentence Yrs Mths Days

S Number S126243/21G Supervision Level High Establishment Perth Hall C Cell 2/59 Confirmed EDL Confirmed PQD

ICM Type Enhanced Domain

Status Indicators: Suicide Prevention, Sex Offender, Court Disposals, Risks & Conditions, MAPPA

Notes Assessments Actions Activities

Notes *

Date Entered Entered By * Reason *

Date Entered Entered By * Reason *

Date Entered Entered By * Reason *

Date Entered Entered By * Reason *

Case **Click** Risk Assessment

The Risk Assessment screen will appear, click **New** to add a new document:

Click

Prisoner

Prisoner No. SURNAME Forename(s) Date Of Birth Sentence Yrs Mths Days

S Number S126243/21G Supervision Level High Establishment Perth Hall C Cell 2/59 Confirmed EDL Confirmed PQD

Risk Assessment Details

From Date To Date * 16-02-2024 Reason

Note Delete Cur

Date Entered Entered By * Reason * **Attach Document**

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Date Entered Entered By * Reason * **Attach Document**

Note Delete Cur

Date Entered Entered By * Reason * **Attach Document**

Confirm Deletion

A new row will appear in yellow, to allow you to enter the reason for the document being uploaded, a note to describe the document and to attach the document.

Risk Assessment And Reports: OFFICIAL-SENSITIVE-PERSONAL (Active)

Prisoner

Prisoner No. Surname Forename(s) Date Of Birth Sentence Yrs Mths Days

S Number Supervision Level Establishment Hall Cell Confirmed EDL Confirmed PQD

Risk Assessment Details

From Date To Date * 16-02-2024 Reason

Date Entered Entered By Reason * **1** **2** Note **3** Attach Document

Status Indicators

- Suicide Prevention
- Sex Offender
- Court Disposals
- Risks & Conditions
- MAPPA

Once entered, click **Save**:

New Save **Click** Find Cancel Generic Search Dates Photo Report Export Print ? Exit

Prisoner

Prisoner No. Surname Forename(s) Date Of Birth Sentence Yrs Mths Days

S Number Supervision Level Establishment Hall Cell Confirmed EDL Confirmed PQD

Risk Assessment Details

From Date To Date * 16-02-2024 Reason

Date Entered 16-02-2024 Entered By U115525 Reason * Risk Assessment Note Transgender Document Delete Cur

Attach Document

Status Indicators

- Suicide Prevention
- Sex Offender
- Court Disposals
- Risks & Conditions
- MAPPA

After the initial case conference, further TCCs should be held at least monthly for the first three months, then at least quarterly longer-term. Initially it may be necessary to hold TCCs more frequently in order to reach a decision about the longer-term placement of an individual, this should be accommodated in as far as is possible.

Once all management issues relating to the person in custody's gender identity and gender reassignment appear to have been successfully resolved, the case conference frequency can switch to one review every six months, if agreed by members of the TCC including the transgender individual. If the person in custody requires additional support at any time, then monthly or additional TCCs should be resumed.

5.5 Complex Location Decisions

If after consideration of the evidence laid out in the CCIA form, the members of the TCC are unable to make a decision regarding the individual's placement because the circumstances surrounding the individual are of a particularly complex nature, or in the case of a transgender woman, she meets the VAWG criteria detailed in Annex 6 of the policy, or there is information available that she has previous incidents of VAWG, this would be considered a **Complex Location Decision**.

Complex Location Decisions should be referred by the Chair of the TCC to the local risk management team (RMT) for them to make the longer term placement decision. The Deputy Governor should also be notified. This approach may be considered necessary, particularly if the inability of the TCC to reach a decision is resulting in an individual being held under Rule 95 conditions in order to protect the safety and security of either themselves or others in custody. There may be other reasons why a case should be referred to the RMT but decisions to refer should be made on a case-by-case basis.

In these cases, the individual's completed CCIA form and any other relevant information should be submitted to the RMT for consideration in making longer term placement decision.

Complex location decisions involving VAWG.

Where a RMT has evidence which suggests that a transgender woman who meets the VAWG criteria detailed in annex 6, or about whom there is information that she has previous incidents of VAWG, may be appropriately placed in the women's estate;

or

Where a transgender woman meeting the VAWG criteria, or about whom there is information that she has previous incidents of VAWG, requests that they are placed in the women's estate.

SPS retains the ability to consider exceptions to the presumption (set out in Annex 1), that no transgender woman with a history, or demonstrating behaviour of VAWG (i.e. a transgender woman who meets the VAWG criteria detailed in Annex 6, or about whom there is information that she has previous incidents of VAWG), should be considered for placement in the women's estate. This is to allow SPS to take an individualised approach where an individual's safety, wellbeing and vulnerability can be taken into account, or indeed in decisions about the appropriateness of the care and services that can be provided to the individual.

Evidence of VAWG will continue to weigh heavily on the assessment of whether the person in custody presents an acceptable or unacceptable risk in the women's estate. However, consideration can be made for escalation if compelling evidence exists. For a move to the women's estate to be considered there will be a requirement for the individual to demonstrate cogently that they do not present an unacceptable risk of harm.

RMT's recommendation should be made to the Executive Panel for authorisation and sign off (see below). See Annex 1 for details of the process outlined for Complex Location Decisions cases.

Executive Panel

The executive panel (EP) will consider the RMT's decision, assure the process followed and confirm the final position, before referring back to RMT for case management of the person

The EP is chaired by SPS Deputy Chief Executive and membership includes SPS Psychology colleagues, senior operational and strategic leaders and the Justice Social Work Advisor.

5.6 Significant Change

If at any time during a transgender person's time in custody there are concerns or intelligence about their charges or behaviour in relation to VAWG or the risk they present to themselves or others, a process known as Significant Change should be followed.

An event that constitutes a significant change can happen to a transgender man or a transgender woman no matter which estate they are housed in. A significant change is a change in circumstances that alters the risk the individual poses to themselves or other persons.

A significant change may occur in the following scenarios:

1. A transgender individual displays a pattern of adverse behaviours towards women evidenced in misconduct reports or through annotation in the Community Integration Plan (CIP) on PR2, including disclosing a threat or risk of violence or behaviour of a sexual nature involving women.
1. SPS receive intelligence/notifications indicating patterns of adverse behaviour towards women or girls, including concerns raised by partner agencies such as Social Work (both prison and community based), NHS, etc.
2. A transgender individual returns from court with VAWG charges (see Annex 6 VAWG criteria)
3. The VAWG marker (see Annex 6), is no longer applicable to a transgender individual, for example, if an individual was remanded for a VAWG charge but this charge is dropped.

The following process should take place when a material change has been identified:

1. A concern, new charge or dropped charge is identified – either by an officer working with the individual, or through Reception (if it is a new charge).
2. The significant change should be raised at local level with the FLM (either the Personal Officer's FLM or the Reception FLM).
3. FLM and establishment Duty Manager consider application of Rule 95 conditions and/or review of the current location of the individual based on risk to the transgender individual and/or to others.
4. A TCC should be held, insofar as is reasonably practicable, within 72 hours from when the concerns, charge or dropped charge are first identified. Where the material change impacts on women's safety a case conference should be held immediately.

5. A TCC should make an assessment of current location arrangements and need as in all other TCCs based on this significant change.

If referral to RMT is required, the process should follow that outlined in section 5.5 above.

5.7 Access to activities and programmes in the estate of an individual's affirmed gender

The TCC should consider and discuss progression and opportunities to participate in activities and programmes taking place in the estate of the individual's affirmed gender even if they are not housed in that same estate. Discussions should include the necessity of attending the proposed activities or programmes, initial consideration of risk as well as logistic considerations including those related to transport and regime.

If a TCC considers it a possibility for an individual housed in the estate which aligns with their sex assigned at birth to participate in activities in the estate which aligns with their affirmed gender, the case should be referred to RMT for them to consider the risk.

As with access to all activities and programmes, decisions for individuals to attend are only made following a careful assessment of risk and need. Assessment should also consider the impact of a person's attendance on others already in that programme or activity.

Individualised progression plans should be developed for transgender women, outlining the needs and support that they may require in custody and for return to their community.

5.8 Other points of note

The individual can opt out of the TCC process at any point but must be given the opportunity to opt back into the TCC process during their time in custody.

A person's gender identity, name and pronouns must be respected at all times and SPS must support transgender individuals to live in their affirmed gender. This may include, but is not limited to, supporting access to property which affirms or supports their gender identity and supporting access to LGBT or transgender community organisations and support.

5.9 Appealing a location decision and complaints.

If an individual disagrees with their placement (whether decided by the TCC or the RMT) and/or searching/sampling decision they can make a complaint following the usual complaints procedure. In responding to the complaint, the respondent (FLM for a PCF 1 or Governor for PCF 2) should review the decision and the evidence which led to the decision following the standard process for investigating and responding to complaints as set out in SPS's Complaints Policy. In these cases, staff at the establishment responding to the complaint should involve the Corporate Policy Lead at HQ and the Service User Rights & Equalities Manager.

Complaints relating to other areas discussed and decided upon in the TCC or regarding any aspect of a transgender person's management should also be made following the usual complaints procedure.

6. ESTABLISHMENT REGIME

6.1 Showering

Considerations for the safety and possible enhanced privacy requirements of transgender people should be taken into account when organising and supporting the individual to shower and change. Access to private showers and changing areas should be accommodated in all instances.

6.2 Property

In addition to local property entitlements, transgender individuals in custody may need access to additional property to assist them to live in their affirmed gender. These items may not be readily available in that establishment. This may be especially the case for transgender individuals not living in an establishment that aligns with their affirmed gender.

Access to additional property that is necessary to support an individual's gender reassignment process should be provided to all people in custody who are transgender, regardless of which establishment they have been allocated to.

For further information please see GMA 017A/22 available at: [T-Notices - 017A-22.pdf - All Documents \(mcas.ms\)](#).

6.3 Transitioning while in custody

Any person in custody that requests assistance from SPS because they are considering transitioning or identifying as a different gender to that which they were assigned at birth should be provided appropriate support by prison staff.

The relevant Unit Manager should be informed of the request and should discuss the request with the individual, taking measures to ensure this is done in private and maintaining confidentiality at all times (taking the usual precautions around private one-to-one conversations with individuals in our custody to ensure the safety of staff).

The Unit Manager must arrange for a TCC to take place, insofar as reasonably practicable, within 72 hours of the individual making their request for assistance. In cases where the individual is requesting to be searched or accommodated in line with their affirmed gender, the Unit Manager should initiate the CCIA form, detailing the most up to date information available prior to the TCC commencing and updated as required with information obtained during the TCC. Some of this information may not be available to be discussed at the initial TCC however this should not prevent that from taking place, insofar as reasonably practicable. Please see section 5 above and the CCIA form.

6.4 Use of names and pronouns in official paperwork

A transgender individual's name and pronouns should be used in all verbal communication.

Generally, a transgender individual's legal name should be used in all official or legal paperwork (e.g. RMA documents, parole documents). If the transgender individual has legally changed their name, their new legal name should be used. If the individual has not legally changed their name, their previous name (their legal name) should be used.

In cases where an individual has not legally changed their name staff can include a person's preferred name and pronouns in paperwork e.g., "the prisoner legally known as X, who has requested to be known as Y and by the pronouns A and B."

7. TERMINOLOGY

The following is a list of terms which are used in the policy, operational guidance and all accompanying documents to ensure that staff are able to understand the position that this policy takes on aspects of managing transgender people in custody. Terms commonly encountered within this subject matter are also included.

Different transgender people may identify in different ways or prefer different terms. Asking a transgender individual how they identify and what pronouns they use is the best way to ensure decent and respectful communication.

Those who participated in the policy review process explained that deliberate misgendering or use of the wrong terms was disrespectful and harmful; it may also constitute harassment. To ensure the dignity of all of those in SPS care, and to promote the wellbeing of all people in custody, it is useful to understand these terms, and it is important to ask people in custody the terminology they prefer to describe their own identity.

It is important to note that language and terms are constantly evolving and changing and may quickly become out of date. Definitions and terms given here are consistent with the time of writing. SPS staff should ensure principles of decency, dignity and respect are upheld at all times.

Transgender

Transgender refers to persons with the protected characteristic of gender reassignment under the Equality Act 2010 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.

The term transgender is often abbreviated to “trans”. A trans woman is a person who was assigned male at birth, but understands herself to be a woman, and identifies as a woman. A trans man is a person who was assigned female at birth but understands himself to be a man and now identifies as a man. The term transsexual is seen by many as an outdated term for transgender/trans but is used in the Equality Act 2010 under the definition of gender reassignment.

Cis-gender/Non-transgender

A person whose gender identity aligns with their sex assigned at birth. In any of the documents related to this policy, it is a term which is used to mean a person who is not transgender and does not imply any innate gender identity. SPS makes no assumptions about how a transgender, or a non-transgender person might express their gender identity or present their gender.

Gender Identity

The way that a person internalises and experiences their gender as an individual. This is something that is personally experienced, and a person's gender identity may or may not correspond to the person's physical characteristics, or the sex they were assigned at birth. A person's gender identity, therefore, is not always visible.

Gender Expression

The way a person presents their gender to people around them through a combination of speech, body language, the emphasis of behaviours or physical characteristics, clothing, or hairstyle. Where gender identity is internal and often invisible, gender expression is an outward projection of the way a person understands their gender.

Gender

The characteristics such as norms, behaviours and roles associated with being a man or woman. This is related to but is different from sex, which refers to the biological and physiological characteristics.

Sex assigned at birth

The sex assigned (male or female) to a child when they are born and is most often based on the child's external sexual anatomy.

Affirmed Gender

The gender by which a person wishes to be known. This term has been used interchangeably with "chosen gender" in the past, however affirmed gender is preferred now amongst transgender communities because "chosen" gender implies that the person was not always the gender which they identify as.

Gender Recognition Certificate (GRC)

A formal certificate granted under the Gender Recognition Act 2004 which grants full legal recognition of an individual's transition to their acquired gender. Individuals seeking a GRC need to apply to acquire one, and once obtained, an individual can obtain replacement birth certificates updated with their new legal gender identity. A GRC is not a requirement for protection under the Equality Act 2010 under the protected characteristic of gender reassignment.

Transitioning

The steps a transgender person takes to live in the gender with which they identify. Transitioning may encompass a variety of steps including medical and surgical intervention, presenting and dressing in the gender with which they identify, changing names and pronouns and changing official documents. It is important to understand that not all transgender people may want, or are able, to go through medical or surgical transition. This process may also be called gender reassignment. Gender reassignment is also the term used in the Equality Act 2010 to denote the protected characteristic of gender reassignment and transgender.

LIST OF ANNEXES

SOPS

Annex 1 – Complex Location Decisions Involving VAWGs

Forms/templates

Annex 2 – Transgender Admission form

Annex 3 – Case Conference for Initial Assessment (CCIA) form

Annex 4 – Searching and Sampling Arrangement form

Annex 5 – Transgender Case Conference minutes template

Additional guidance/explanations

Annex 6 – Violence Against Women and Girls (VAWG) Criteria

Further Information

The SPS recognises that employees may have questions or concerns relating to the SPS Policy for the Management of Transgender People in Custody and associated Guidance. The SPS encourages open discussion with employees to ensure that questions are answered, and problems can be resolved as quickly as possible. Employees are encouraged to seek clarification on any issues with the appropriate line manager in the first instance.

Monitoring and Evaluation

It is important that monitoring and evaluation is proportionate and is consistent with wider organisational performance arrangements. There are five strands to the monitoring and evaluation arrangements for the updated policy:

- ongoing quality assurance and monitoring of policy and guidance.
- updated operational audit arrangements.
- the testing of self-evaluation/quality indicators for transgender people (as part of wider self-evaluation arrangements for other populations/prisons).
- annual reporting through the Public Information Page (PiP).
- Independent evaluation of policy within 5 years of publication.

The policy and guidance will need to keep pace with any legislative or regulatory changes or wider evidence or learning that emerges in the intervening period between publication and future policy evaluation.

Equality Statement

The SPS is an equal opportunities employer where all employees are treated with dignity and respect. We are fully committed to equality, diversity and human rights and to ensuring our culture, working environment, policies, processes and practices are free from bias. This guidance applies to all employees regardless of protected characteristics, and, subject to any eligibility criteria, length of service, grade, working pattern or operational status.

Inclusive Communications

It is our ambition to ensure that SPS documents are readable, accessible and engaging for staff. In formatting this document, good practice principles around engagement and inclusive communications have been adhered to.

If you require this document in an alternative format, please contact Human Resources.

Sustainability

Improving our environmental performance and doing things in a more sustainable way should be seen as integral to our core business practices.

In line with the SPS Sustainable Policy and to demonstrate compliance with the Scottish Government's commitment to improving environmental and sustainable development performance, please be mindful if printing this document – keeping paper usage to a minimum (print only version), printing on both sides, and recycling.