Practice and Ethical Guidance for Clinical Staff Supporting Trans Clients Sentenced to Mental Health Treatment Requirements

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The term 'trans' is an umbrella term to describe people whose gender is not the same as, or does not sit comfortably with, the sex they were assigned at birth.

The aim of this document is to provide an overview of clinical and ethical guidance when working with trans clients across the Mental Health Treatment Requirements (MHTR) pathway, particularly those where single sex spaces are used.

Trans clients are more likely to have faced discrimination and traumatic life experiences than the general population, including systemic discrimination, which can ultimately contribute towards mental health difficulties, lack of trust in healthcare and reduced help-seeking. Although there are localised training programmes on trans awareness typically provided by NHS trusts, there is currently no MHTR guidance regarding the use of single sex spaces or care of trans clients.

This document also aims to inform those working to increase the use of MHTRs and colleagues working in all non-NHS settings to provide an overview of gender-affirming and inclusive practice when working with trans clients, particularly when working in single sex spaces, as well as increasing the understanding of trans rights and to aid self-awareness. The information set out in this document is based on legislation, including the [1]Equality Act 2010.

An overview of legalities is provided for client confidentiality, communications, suitability, risk, discrimination, assessment and treatment. Emphasis is placed on trans individual's right to access single sex spaces, such as women's centres. As with any client, this should be weighed with proportionate risk assessment and safeguarding measures.

Legislation

Legal and good practice guidance can be sought from the following legislation: [2](i) Sex Discrimination Act (amendment of legislation, 2008), parts i, ii and iii; (ii) [3]Human Rights Act (1998); [4]Gender Recognition Act (2004); and (iii) Equality Act (2010).

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[1] Equality Act 2010 (legislation.gov.uk)
[2] The Sex Discrimination (Amendment of Legislation) Regulations 2008
[3] Human Rights Act 1998 (legislation.gov.uk)
[4] Gender Recognition Act 2004 (legislation.gov.uk)

Areas	Guidance
Clinical considerations when screening and assessing for primary mental health treatment requirement P(MHTR)	a) **Staff should take responsibility**: seek guidance and training from trans people with lived experience, be client-led in the use of terminology in order to integrate traditional practice with theory. b) **Work in line with the** NHS Constitution for England 2021 **:** NHS guidance is informed by legislation and therefore can be applicable to non-NHS partners. c) **Screening and assessing trans clients** for the Primary care Mental Health Treatment Requirements (PCMHTR) are outlined below.
Confidentiality	a) **If a trans individual is in possession of a Gender Recognition Certificate (GRC)** and a staff member passes information on to a another without the permission of the individual, the staff member is liable to criminal proceedings. Where an individual has applied for an GRC information relating to this application is also considered protected information. An exception to this offence falls under Section 22 of the Gender Recognition Act 2004 whereby the healthcare professional making the disclosure has a reasonable belief that either consent has been given or consent cannot be given and the disclosure is made to a health professional for medical purposes (CNWL, 2016). b) **Transparency and clear communication about confidentiality is essential**: give the client options when possible to increase their autonomy in treatment. c) **All staff should maintain confidentiality, proactively look to tackle harassment and protect sensitive information:** only share details about trans individuals with people who need to know, eg when records need to be changed and when this has been agreed with the client who may not be comfortable sharing information with professionals that have historically not been gender inclusive (CNWL, 2016).
Communications	a) **Gender identity should be identified as part of the initial assessment** and clients should be addressed by their correct pronouns, which they should be given the opportunity to provide. b) **Where a client is transgender and uses a preferred name,** an 'aka' against their legal name could be used if this has been agreed with the individual. c) **If client has consented, their gender identity can be recognised**, this could be expressed as, 'client formally known as x' uses [insert pronouns e.g. he/him, they/them, she/her]. It is important to provide gender-affirming healthcare, as microaggressions, such as a lack of respect for client identity, have been

linked to decreased treatment satisfaction and reduced help-seeking behaviour in trans individuals (Morris, Lindley & Galupo, 2020).

d) **If appropriate and with the client's consent, supporting the client with a Memorandum of Understanding could be considered** to summarise agreed actions such as who / if anyone, needs to be informed of gender reassignment, whether further training for peers or colleagues is necessary, and what amendments to records and systems may be needed (Gender Identity Research & Education Society, n.d.).

e) **If clinical systems are dichotomous and do not allow gender and/or names to be changed or expanded on**, this should be discussed with the client so that an agreement can be made on how this is managed. Types of questions that can be asked are, 'what pronouns would you like me to use?', 'in x situation, what pronouns would you like to use?'. Staff should refrain from using, 'what pronouns do you prefer?', as using the word 'preference' suggests that using that person's pronouns is optional rather than necessary.

Risk

It has been well documented that gender minorities have poorer mental health outcomes than cisgender individuals including increased suicidality, with one study finding that suicide attempts in trans adults was more than 1 in 3 (Fish, 2007). Poorer outcomes have been linked to gender related microaggressions, discrimination and hate crime (Borgogna, McDermott, Aita & Kridel, 2019; Brennan et al., 2017; Home Office, 2019).

a) **Research suggests that young trans individuals are more likely to experience additional stressors**, such as issues with housing, finances, access to legal advice and difficulty accessing appropriate healthcare, including fear of transphobia if medical interventions are sought (Fish, 2007b; Stonewall, 2018). Fish (2007b) found that family support can be limited, and higher rates of substance abuse and risky sexual behaviours were reported.

b) **Substance abuse has been found to be common among trans individuals** and possible barriers toward accessing treatment have been identified, such as a lack of sensitivity by service providers and gender segregation within programmes (Fish, 2007a).

c) **Interviews with trans individuals have shown that gender-affirming therapy**, can help to improve treatment outcomes (Anzani et al., (2019).

d) **Systemic transphobia including cisnormativity**, where individuals are assumed to be cisgender, and discrimination are thought to contribute to increased anxiety, depression, self-harm and distress within trans individuals (Andersson et al., 2020; Lefevor et al., 2019; Rodgers et al., 2017).

e) **Interviews with professionals in the public sector working in single sex spaces have found that they have successfully operated as trans inclusive** with effective risk assessments in place that would safeguard against risky offenders accessing the space, and that trans individuals have accessed single sex spaces for as long as they have existed and there has been no known evidence of issues related to sexual abuse 'survivors' safety (Stonewall, 2018; Survivors' Network, 2020).

Discrimination

a) **Clients should be made aware of how and to whom they can raise concerns should they experience any form of harassment or discrimination** in relation to their expression of gender identity, or any other protected characteristic, from staff or other service users. There should be a system in place to monitor the effectiveness of this to ensure an inclusive and supportive environment.

b) **Staff should be familiar with safeguarding policies and procedures,** contacts and processes in place within their organisation to support clients who have faced discrimination as these may vary between different organisations such as the voluntary sector, the NHS and criminal justice system.

c) **Respecting and recognising acquired gender:** NHS guidance, including CNWL (2016) and the NHS constitution, set out clearly that clients are seen as the gender they identify with and respect should be given to the individual's right to express their gender identity without stigma or judgement.

d) **For MHTR providers** to ensure that all clients feel equally treated and respected.

e) **Should a practitioner notice that their interactions with a trans client are becoming increasingly affected by biases**, then the practitioner should be encouraged to explore this in supervision and/or additional training identified as part of their appraisal or line management. If necessary, an alternative practitioner should be considered to protect the client from potential microaggressions which could damage help-seeking behaviour and trust in professionals.

f) **Staff should engage with training and reflective practice in supervision to increase self-awareness** and identify any possible biases that may be influencing their practice, such as cognitive biases, personal experience, or their environment (British Psychological Society, 2017).

g) **The MHTR clinical staff are aware of prejudices** and misunderstanding regarding the trans community and are therefore mindful to ensure they provide the most appropriate service. If staff have concerns about colleagues behaviour they should raise this with their line manager

h) **Staff should be aware of how stereotyping could impact on trans individuals.**

i) **If a gender/pronoun is assumed,** this can be distressing for a trans client and could lead to disruptions in the therapeutic relationship or disengagement from treatment (National LGBT Health Education Centre,

2018). Staff should use more open and gender-neutral questions and refrain from using gendered language until the client has communicated the language they would like to be used.

j) **MHTR providers can access training around trans identity** which should then inform their practice and help to educate other staff and service users on the subject.

k) **The Ministry of Justice (2019) sets out guidance for Offender Managers** (OMs) to support trans clients, including that statutory appointments do not disrupt appointments related to gender identity, that alternative venues are arranged if the Gender Identity Clinic (GIC) is in an exclusion zone and that if these guidance are not possible, then a licence/sentence variation must be considered (or a review by a Transgender Board could be organised).

l) **Transphobic violence** was found to be more often directed at trans females than males which should be considered and safeguarded against if deciding on appointment locations (Fish, 2007b).

Assessment and Suitability

a) **Gender identity should be discussed at the point of assessment where appropriate,** as well as in supervision, and signposting resources should be provided as appropriate. As with any assessment, the suitability of a PMHTR will be discussed between the assessor (Assistant Psychologist or L&DS Practitioner) and the clinical lead. If it is felt that the PMHTR would contribute to an improvement in mental health, and the individual is not receiving treatment from gender services, including if they are on a waiting list, then the referral would be considered for acceptance within the usual criteria.

b) **If the client is waiting for an appointment with gender services, this should not exclude the client from MHTR services,** as waiting lists for GICs can be several years, and they may benefit from support in the interim. Recommendations could be made to complete the intervention with gender services first if the client is already receiving treatment with them, although this might impact on the client's suitability for the PMHTR. In these cases, professional discussions should consider what therapeutic work has already been undertaken and how mental health issues may be contributing towards the offending behaviour.

c) **Trans individuals seeking mental health support through a PMHTR will not be able to work exclusively on gender identity issues** as the PMHTR is a primary care, short-term service and would not allow sufficient time to work on gender identity.

d) **Clients who are seeking support with their gender identity as a primary issue should be referred to a GIC to conduct an in-depth assessment and treatment in this area**. Trans individuals may present with anxiety and depression linked to their gender identity, such as minority stress or anxiety linked to a lack of access to gender identity services, which could be within the remit of the PMHTR, and

will be discussed with the clinical lead at the point of assessment, with particular attention to whether poor mental health is related to offending behaviour.

e) **Providers should not be refusing a referral due to issues with gender identity** but take clients' goals into consideration and whether this can be achieved and adapted from the programme that is offered.

f) **Trans clients might be less likely to seek treatment than the general population** (Collaborating Centre for Mental Health, 2019) despite anxiety, depression and self-harming behaviours being more common (Arcelus et al., 2017; NHS, 2016). (Government Equalities Office, 2018).

g) **Staff should always have a trauma informed approach when working with trans clients** who are disproportionately affected by violence and both interpersonal and institutional transphobia (Burnes, Dexter, Richmond, Singh & Cherrington, 2016; Mizock & Lewis, 2008).

h) **Although the PMHTR will not be able to address trauma due to its short-term nature, all clients who are being assessed and treated within the PMHTR may be aided by a safe environment,** connecting the client with social support, advocating inclusive, non-discriminatory practice and language, as well as examining our own biases on gender norms (Richmond, Burnes & Carroll, 2012).

i) **Some trans clients may require or receive additional medical interventions**. Some treatments may result in mood changes and staff should support clients with this. Staff should also be aware of the importance of providing these treatments consistently.

Ethical considerations

Professionals should work as flexibly as possible when considering individual client needs and intersectionality. These needs may result in changes to ways of working, so multi-disciplinary discussions, as well as clarifying expectations and boundaries, are important. The following issues should be considered:

a) **Trans individuals must be permitted to present and express themselves in their gender or in a gender-neutral way** (Ministry of Justice, 2019).

b) **If the client is transitioning, agree an approximate timeline,** including if and when the client would like to be known as a different name and use of pronouns appropriate to the new gender role.

c) **Options for informing other members of the team**, for example, who needs to know and how this should be done which will be agreed with the client's consent.

d) **Amending records and systems as necessary** (Collaborating Centre for Mental Health, 2019; CNWL, 2016).

e) **The use of gender specific toilets** (see section 3 for more information).

Improvements to access and treatment outcomes for all clients could be made by considering or modifying:

a) The choice of venue for assessment and treatment.
b) Appointment times and days.
c) Gender specific treatment or support groups.
d) The gender, cultural or ethnic background and religion of the clinician, where practical and appropriate.
e) Adapting session length.
f) Adapting materials to be appropriate to different groups.
g) The use of technology may help to increase access and remove barriers to attending appointments.
h) Client choice in how evidence-based interventions are delivered.

It should be noted that if a client expresses discomfort at a trans client using a single sex space and risk and safeguarding procedures have been followed, the complainant could be offered an alternate venue (Gender Identity Research & Education Society, n.d.). Furthermore, organisations (including our non-NHS partners) can be guided by NHS England and NHS Improvement (2019) same-sex accommodation policies which outline the law under the Equality Act 2010 in Annex B and clearly states that, 'clinical responses be patient-centred, respectful and flexible towards all trans people whether they live continuously or temporarily in a gender role that does not conform to their natal sex'.

Appendix 1: Definitions

- **Cisgender or cis -** Someone whose gender identity is the same as the sex they were assigned at birth. Non-trans is also used by some people.
- **Gender -** Often expressed in terms of masculinity and femininity, gender is largely culturally determined and is assumed from the sex assigned at birth.
- **Gender Dysphoria -** Used to describe when a person experiences discomfort or distress because there is a mismatch between their sex assigned at birth and their gender identity. This is also the clinical diagnosis for someone who doesn't feel comfortable with the sex they were assigned at birth.
- **Gender Expression** - How a person chooses to outwardly express their gender, within the context of societal expectations of gender. A person who does not conform to societal expectations of gender may not, however, identify as trans.
- **Gender Identity** - A person's innate sense of their own gender, whether male, female or something else (see non-binary below), which may or may not correspond to the sex assigned at birth.
- **Gender Reassignment -** Another way of describing a person's transition. To undergo gender reassignment usually means to undergo some sort of medical intervention, but it can also mean changing names, pronouns, dressing differently and living in their self-identified gender. Gender reassignment is a characteristic that is protected by the Equality Act 2010, and it is further interpreted in the Equality Act 2010 approved code of practice. It is a term of much contention and is one that Stonewall's trans advisory group feels should be reviewed.
- **Gender Recognition Certificate (GRC)** - This enables trans people to be legally recognised in their affirmed gender and to be issued with a new birth certificate. Not all trans people will apply for a GRC and you currently have to be over 18 to apply. You do not need a GRC to change your gender markers at work or to legally change your gender on other documents such as your passport.
- **Homophobia** - The fear or dislike of someone, based on prejudice or negative attitudes, beliefs or views about lesbian, gay or bi people. Homophobic bullying may be targeted at people who are, or who are perceived to be, lesbian, gay or bi.
- **Intersex** - A term used to describe a person who may have the biological attributes of both sexes or whose biological attributes do not fit with societal assumptions about what constitutes male or female. Intersex people may identify as male, female or non-binary. Stonewall works with intersex groups to provide its partners and stakeholders information and evidence about areas of disadvantage experienced by intersex people but does not, after discussions with members of the intersex community, include intersex issues as part of its current remit at this stage.
- **LGBT** - The acronym for lesbian, gay, bi and trans.
- **Non-Binary** - An umbrella term for people whose gender identity doesn't sit comfortably with 'man' or 'woman'. Non-binary identities are varied and can include people who identify with some aspects of binary identities, while others reject them entirely.
- **Pronoun** - Words we use to refer to people's gender in conversation - for example, 'he' or 'she'. Some people may prefer others to refer to them in gender neutral language and use pronouns such as they/their and ze/zir.

- **Queer** - Queer is a term used by those wanting to reject specific labels of romantic orientation, sexual orientation and/or gender identity. It can also be a way of rejecting the perceived norms of the LGBT community (racism, sizeism, ableism etc). Although some LGBT people view the word as a slur, it was reclaimed in the late 80s by the queer community who have embraced it.
- **Trans** - An umbrella term to describe people whose gender is not the same as, or does not sit comfortably with, the sex they were assigned at birth. Trans people may describe themselves using one or more of a wide variety of terms, including (but not limited to) transgender, transsexual, gender-queer (GQ), gender-fluid, non-binary, gender-variant, crossdresser, genderless, agender, nongender, third gender, bi-gender, trans man, trans woman, trans masculine, trans feminine and neutrois.
- **Transgender Man** - A term used to describe someone who is assigned female at birth, but identifies and lives as a man. This may be shortened to trans man, or FTM, an abbreviation for female-to-male.
- **Transgender Woman** - A term used to describe someone who is assigned male at birth but identifies and lives as a woman. This may be shortened to trans woman, or MTF, an abbreviation for male-to-female.
- **Transitioning** - The steps a trans person may take to live in the gender with which they identify. Each person's transition will involve different things. For some this involves medical intervention, such as hormone therapy and surgeries, but not all trans people want or are able to have this. Transitioning also might involve things, such as telling friends and family, dressing differently and changing official documents.
- **Transphobia** - The fear or dislike of someone based on the fact they are trans, including denying their gender identity or refusing to accept it. Transphobia may be targeted at people who are, or who are perceived to be, trans.
- **Transsexual** - This was used in the past as a more medical term (similarly to homosexual) to refer to someone whose gender is not the same as, or does not sit comfortably with, the sex they were assigned at birth. This term is still used by some although many people prefer the term trans or transgender.

Appendix 2: Trans organisations

- AKT (Albert Kennedy Trust) - https://www.akt.org.uk/ supports LGBTQ+ young people aged 16-25 in the UK who are facing or experiencing homelessness or living in a hostile environment.
- Beaumont Society - https://www.beaumontsociety.org.uk/ Longest established transgender support group in the UK.
- GIRES (Gender Identity Research & Education Society) - https://www.gires.org.uk/ UK organisation to help improve lives of people of all ages who are trans, gender non-conforming, non-binary and non-gender.
- Imaan - https://imaanlondon.wordpress.com/ LGBT+ group for Muslims.
- Implicit Association Tests - Take a Demo Test (harvard.edu) – take tests for awareness around implicit bias on various characteristics.
- Kite Trust - https://www.thekitetrust.org.uk/ Support the wellbeing of young LGBTQ+ people in Cambridgeshire through information, support and groups.
- Mermaids - https://mermaidsuk.org.uk/ National charity for young transgender people (0-19).
- NHS Gender Identity Clinics - https://www.nhs.uk/live-well/healthy-body/how-to-find-an-nhs-gender-identity-clinic/
- Schools Out UK - http://www.schools-out.org.uk/ LGBT+ education charity.
- Sparkle - https://www.sparkle.org.uk/ National transgender charity.
- Stonewall - https://www.stonewall.org.uk/our-work/campaigns/come-out-trans-equality LGBT+ rights charity.
- Stonewall Housing - https://stonewallhousing.org/ - helping to create safe spaces for LGBT+ people.
- TransBareAll - http://transbareall.co.uk/ Trans led, voluntary organisation that works with trans people to explore feelings and decisions around bodies, sexual health and intimacy.
- TransUnite - https://www.transunite.co.uk/ online resource for trans people in the UK. Helps you to locate support groups (physical and online).
- TranzWiki - https://www.tranzwiki.net/ TranzWiki is a comprehensive directory of the groups campaigning for, supporting or assisting trans and gender non-conforming individuals, including those who are non-binary and non-gender, as well as their families across the UK.