

Tasmania Prison Service

Director's Standing Order

DSO – 2.15 Transgender, Transsexual and Intersex Prisoners

Table of Contents

1. Statement of Purpose	2
2. Desired Outcome	2
3. Scope	2
4. References (including Legislation, Policy, Forms and Other Documents)	2
5. Definitions and Abbreviations	3
6. Mandatory Policy	4
7. Responsibilities	4
8. LGBTI Training for TPS Staff	5
9. Identification of Transgender, Transsexual and Intersex Prisoners	5
10. Accommodation Placement	5
10.1. Initial placement	5
10.2. Ongoing placement	6
11. Management of Transgender, Transsexual and Intersex Prisoners	7
11.1. Treatment	7
11.2. Confidentiality	7
11.3. Clothing and personal care items	7
11.4. Access to programs and services	7
12. Searches and Urinalysis Testing	7
13. Hormone Treatment and Gender Reassignment Surgery	8
14. Document History and Access	8

1. Statement of Purpose

To define the rules governing the reception and management of transgender, transsexual and intersex prisoners.

This Standing Order outlines the protocols for the reception and management of prisoners who identify as transgender, transsexual or intersex.

Transgender, transsexual and intersex prisoners may be vulnerable in the mainstream prison population and must be managed in a manner that prioritises their safety. Transgender, transsexual and intersex people have historically been vulnerable within prison environments, as well as in the community.

2. Desired Outcome

Tasmania Prison Service staff treat transgender, transsexual and intersex prisoners with dignity and respect.

Transgender, transsexual and intersex prisoners will be managed as the gender with which they identify.

Provided that the safety, security or good order of the prison is not compromised, transgender, transsexual and intersex prisoners have the right to be housed in a correctional facility appropriate to their gender of identification.

Transgender, transsexual and intersex prisoners are managed in a manner that prioritises their safety in the prison environment.

Transgender, transsexual and intersex prisoners will have access to services and programs provided by the Tasmania Prison Service.

Transgender, transsexual and intersex prisoners will have access to services provided by Correctional Primary Health Services.

3. Scope

This Standing Order applies to prisoners, detainees and other persons in the custody of the Tasmania Prison Service. All sections of this Director's Standing Order relate to watch-house detainees, with the exception of section 10.2 (Ongoing Placement).

4. References (including Legislation, Policy, Forms and Other Documents)

[Anti-Discrimination Act 1998](#), sections 3, 16(ea) and (eb)

[Births, Deaths and Marriages Registration Act 1999](#), 28A(1)(b), 28G(1)

[Corrections Act 1997](#), sections 4(c), 6(3), 8, 29(1)(e) and (f)

[Department of Health and Human Services Guidelines on procedures not funded to be routinely performed in Tasmanian Public Hospitals](#)

[Director's Standing Order 1.10 \(Searching\)](#)

[Director's Standing Order 1.20 \(External Escorts\)](#)

[Director's Standing Order 1.22 \(Substance Testing\)](#)

[Director's Standing Order 1.24 \(Separate Confinement of Prisoners\)](#)

[Director's Standing Order 1.38 \(Medical Appointments and Hospital Admissions\)](#)

[Director's Standing Order 2.01 \(Suicide and Self-harm Prevention\)](#)

[Director's Standing Order 2.02 \(Induction and Case Management\)](#)

[Director's Standing Order 2.04 \(Classification and Placement\)](#)

[Director's Standing Order 2.05 \(Accommodation Placement\)](#)

[Director's Standing Order 2.18 \(Hygiene and Grooming\)](#)

[Director's Standing Order 2.20 \(Preventing Bullying \(Prisoners/Detainees\)\)](#)

[Director's Standing Order 4.05 \(Visits \(Professional\)\)](#)

[Director's Standing Order 4.08 \(Health Services\)](#)

[Personal Information Protection Act 2004](#)

[State Service Act 2000](#), sections 7(1)(c) and 9(3)

[Tasmania Prison Service Inmate Anti-Bullying Strategy](#)

[Whole-of-Government Framework for Lesbian, Gay, Bisexual, Transgender and Intersex Tasmanians \(Department of Premier and Cabinet\)](#)

[Form 1AG – Tier 2 Assessment](#)

[Form 1H – Appeal Classification/Placement Decision](#)

Form 1J – Tier 1 Assessment

[Form 5AZ – Launceston / Hobart Escort Seating Plan](#)

[Form 5T – Separation Order](#)

5. Definitions and Abbreviations

CIS – means the Custodial Information System.

CPHS – means Correctional Primary Health Services.

Detainee – means a person, other than a prisoner, who is subject to an order of a court by which he or she is remanded or otherwise committed to prison.

Gender identity – means the gender-related identity, appearance or mannerisms or other gender-related characteristics of an individual (whether by way of medical intervention or not), with or without regard to the individual's designated sex at birth, and includes transsexualism and transgenderism. A person's gender identity or gender expression is not always exclusively male or female and may or may not correspond to their sex.

Intersex – refers to people who have physical, hormonal or genetic features that are not typically 'male' or 'female'. Intersex people have a diversity of bodies and identities. Some people identify as neither male nor female.

LGBTI – refers collectively to people who are lesbian, gay, bisexual, transgender, and/or intersex.

Prisoner – means, unless otherwise stated, prisoner and detainees (as defined in the *Corrections Act 1997*).

Sex – refers to a person's biological characteristics. A person's sex is usually described as being male or female. Some people may not be exclusively male or female (the term 'intersex' is explained above). Some people identify as neither male nor female.

TPS – means the Tasmania Prison Service.

Transgender prisoner – in this Standing Order, refers to prisoners whose identified gender differs from their biological sex, regardless of whether they have undergone a medical intervention or have an intersex condition. Some people identify as neither male nor female.

Transsexual – means a person who, whether or not intersex and having been legally assigned one gender at birth, (a) assumes the bodily characteristics of the other gender by medical or other means; or (b) identifies himself or herself as a member of the other gender; or (c) lives or seeks to live as a member of the other gender.

Note: A prisoner who has had his/her sexual reassignment surgery registered in accordance with section 28A(1)(b) of the [Births, Deaths and Marriages Registration Act 1999](#) is by virtue of section 28G(1) a person of the sex as reassigned.

6. Mandatory Policy

- 6.1. The State Service Code of Conduct requires that an employee, when acting in the course of State Service employment, must treat everyone with respect and without harassment, victimisation or discrimination.
- 6.2. The State Service Principles require that all employees provide a workplace that is free from discrimination and recognises and utilises the diversity of the community it serves.
- 6.3. Transgender, transsexual and intersex prisoners will be managed as the gender with which they identify.
- 6.4. Provided that the safety, security or good order of the prison is not compromised, transgender, transsexual and intersex prisoners have the right to be housed in a correctional facility appropriate to their gender of identification.
- 6.5. Transgender, transsexual and intersex prisoners are managed in a manner that prioritises their safety in the prison environment.
- 6.6. Transgender, transsexual and intersex prisoners will have access to services and programs provided by the TPS.
- 6.7. Transgender, transsexual and intersex prisoner information will be managed in accordance with the *Personal Information Protection Act 2004* and section 8 of the *Corrections Act 1997*.

7. Responsibilities

7.1. All staff

All TPS staff must ensure the safety of prisoners who identify as transgender, transsexual or intersex.

Whilst ensuring compliance with the *Personal Information Protection Act 2004*, and section 8 of the *Corrections Act 1997*, other prisoners who come into contact with transgender, transsexual or intersex prisoners must be encouraged to treat transgender or intersex prisoners with dignity and respect.

7.2. Chief Superintendent

At the request of a transgender, transsexual or intersex prisoner, the Chief Superintendent will undertake a review of the decision for their ongoing placement.

7.3. Correctional Officers (Reception Prison)

Correctional Officers within Reception Prisons are responsible for identifying transgender, transsexual and intersex prisoners upon reception into custody. They are responsible for consulting with CPHS and Therapeutic Services staff to ensure a thorough assessment is completed prior to making a recommendation as to prisoner classification/placement.

7.4. Correctional Officers (Case Management)

Correctional Officers assigned case management duties for a transgender, transsexual or intersex prisoner are responsible for regularly monitoring their accommodation placement and management.

7.5. CPHS / Therapeutic Services

CPHS and Therapeutic Services staff are responsible for working with Correctional Officers (Reception Prison) to assess the needs of transgender, transsexual and intersex prisoners, including decisions relating to the initial and ongoing placement of these prisoners within the prison system.

CPHS staff will recommend as to the appropriateness of transgender, transsexual or intersex prisoners continuing a hormone treatment program and/or gender reassignment surgery during their time in custody. CPHS are responsible for appropriately monitoring and managing prisoners undergoing a hormone treatment program and/or gender reassignment surgery.

7.6. Superintendent (Reception Prison)

The Superintendent (Reception Prison) will determine the placement of transgender, transsexual and intersex prisoners within the prison system, following a joint assessment by the TPS (including Therapeutic Services) and CPHS.

7.7. Staff Engagement and Recruitment

The Staff Engagement and Recruitment team is responsible for providing training relating to people who are LGBTI to Correctional Officer recruits. Where appropriate, training should be delivered in consultation with LGBTI communities and organisations within Tasmania.

8. LGBTI Training for TPS Staff

- 8.1. TPS staff are encouraged to develop an understanding of the needs of LGBTI prisoners. This will assist in managing these prisoners in a manner responsive to their needs.
- 8.2. The inclusion of relevant LGBTI training will be considered as part of the TPS learning and development framework.

9. Identification of Transgender, Transsexual and Intersex Prisoners

- 9.1. Upon reception into custody, Correctional Officers (Reception Prison) must provide prisoners with the opportunity to self-identify as transgender, transsexual or intersex prior to the commencement of a strip search.
- 9.2. In instances where a prisoner presents with an anatomical sex that differs from his or her gender (as recorded in Court or Tasmania Police documentation), Correctional Officers (Reception Prison) must clarify the gender identity or intersex status of the prisoner.
- 9.3. Self-identification as a member of a sex other than a person's gender or birth is the only criterion for recognition as transgender or transsexual.
- 9.4. Correctional Officers (Reception Prison) must work with CPHS and Therapeutic Services staff during the reception process to assess transgender, transsexual and intersex prisoners, and to ensure they are accommodated appropriately. A further or extended period for assessment should be provided where practical.
- 9.5. Following the Tier 1 Assessment process, Correctional Officers (Reception Prison) must record the prisoners' identified sex (according to their preferred gender identity) in CIS. A 'Gender Alert' must also be recorded in CIS, with the subcategory of 'Transgender', 'Transsexual' or 'Intersex' selected (when known), along with a case note identifying the prisoner as transgender, transsexual or intersex.

10. Accommodation Placement

10.1. Initial placement

- 10.1.1. Transgender, transsexual and intersex prisoners are highly vulnerable in a corrections environment, and in every case, their initial placement must be viewed as a matter of urgency and identified as high risk by Correctional Officers (Reception Prison).
- 10.1.2. With regards to prisoner safety, until a decision is made regarding the ongoing placement and management of a transgender, transsexual or intersex prisoner, the prisoner must be:
 - accommodated in a single cell and in a way that ensures appropriate management of any risks posed in relation to the prisoner, including risk of harm to the prisoner (including self-harm);
 - given access to separate toilet and shower facilities; and
 - transported in accordance with the protection transport category during escorts (in accordance with [Director's Standing Order 1.20 \(External Escorts\)](#)).
- 10.1.3. If it is deemed the prisoner requires protection from the general prison population, until a decision is made regarding their ongoing placement and management, they must be

placed in administrative segregation in accordance with [Director's Standing Order 1.24 \(Separate Confinement of Prisoners\)](#).

- 10.1.4. Particular attention must be given to ongoing assessment of self-harm risks, particularly if the transgender, transsexual or intersex prisoner is isolated from other prisoners.
- 10.1.5. CPHS and Therapeutic Services staff must be involved with decisions made in relation to the initial placement of transgender, transsexual or intersex prisoners within the prison system.

10.2. Ongoing placement

- 10.2.1. Following completion of the Tier 1 Assessment process, and the initial placement of the transgender, transsexual or intersex prisoner, the Correctional Supervisor reviewing the classification/placement recommendation must refer the matter on to the Superintendent (Reception Prison).
- 10.2.2. CPHS and Therapeutic Services staff must be involved with decisions made in relation to the ongoing placement of transgender, transsexual or intersex prisoners within the prison system.
- 10.2.3. The Superintendent (Reception Prison) must determine the placement of transgender, transsexual and intersex prisoners within the prison system, taking into account [Director's Standing Order 2.04 \(Classification and Placement\)](#), and paying particular attention to:
 - the safe and secure custody of the transgender, transsexual or intersex prisoner and other prisoners at the facility;
 - the views of CPHS and Therapeutic Services staff;
 - the views of any other relevant practitioners (i.e. a treating medical practitioner in the community);
 - the prisoner's preference for accommodation in a male or female facility (noting that transgender, transsexual or intersex prisoners may not have a preference);
 - whether the prisoner has self-identified through the Tier 1 Assessment process as having lived as a member of the acquired gender in the community and for what length of time.
- 10.2.4. Provided that the safety, security or good order of the prison is not compromised, transgender, transsexual and intersex prisoners must be accommodated in a prison of their gender of identification. For example, transgender prisoners who identify as female will normally be accommodated within the Mary Hutchinson Women's Prison unless there are overriding security, safety or other reasons to accommodate them within a men's facility.
- 10.2.5. The Superintendent (Reception Prison) must inform the relevant Chief Superintendent of the decision made for the ongoing placement of the prisoner.
- 10.2.6. If a transgender, transsexual or intersex prisoner does not agree with the decision for their ongoing placement, they may seek a review of the placement decision to be conducted by the Chief Superintendent. This must be in consultation with the facility Supervisor.
- 10.2.7. A transgender, transsexual or intersex prisoner's placement should be regularly reviewed by their assigned Correctional Officer (Case Management), especially in instances where they are undergoing hormone treatment and/or gender reassignment surgery in accordance with section 13.

11. Management of Transgender, Transsexual and Intersex Prisoners

11.1. Treatment

- 11.1.1. TPS staff and other prisoners who come into contact with transgender, transsexual or intersex prisoners must be encouraged to treat transgender, transsexual or intersex prisoners with dignity and respect, in accordance with [Director's Standing Order 2.20 \(Preventing Bullying \(Prisoners/Detainees\) and the TPS Inmate Anti-Bullying Strategy\)](#).
- 11.1.2. TPS staff must address transgender, transsexual and intersex prisoners with the name they wish to be addressed by and according to their gender identity (using the appropriate pronoun – he/she). This is irrespective of the name or gender shown on any legal documentation. In instances where a transgender, transsexual or intersex prisoners' preferred name differs from legal documentation, the alias must be recorded in CIS.

11.2. Confidentiality

- 11.2.1. TPS staff must manage transgender, transsexual and intersex prisoner information in accordance with the *Personal Information Protection Act 2004* and section 8 of the *Corrections Act 1997*. Except to the extent necessary to perform the duties, powers or functions of a position, TPS staff must not disclose transgender, transsexual or intersex prisoner information (including information relating to their gender identity).

11.3. Clothing and personal care items

- 11.3.1. Transgender, transsexual and intersex prisoners must be issued with clothing appropriate to the facility in which they are placed.
- 11.3.2. Transgender, transsexual and intersex prisoners must have access to underwear appropriate to their gender identity.
- 11.3.3. Detainees who are transgender, transsexual or intersex have the right to wear their own suitable clothing when appearing in court. All detainees must exercise appropriate modesty and consideration for the sensitivities of other prisoners and staff in their style of dress.
- 11.3.4. Transgender, transsexual and intersex prisoners must be able to purchase the same personal care items and cosmetic items through the canteen as other prisoners housed in their facility.

11.4. Access to programs and services

- 11.4.1. Transgender, transsexual and intersex prisoners must be provided with access to the full range of correctional services and programs to the same extent as all other prisoners.
- 11.4.2. Opportunities for transgender, transsexual and intersex prisoners to have contact with relevant support organisations and services will be arranged as required. Except to the extent necessary to perform the duties, powers or functions of a position, TPS staff must not disclose information relating to services providing support to transgender, transsexual or intersex prisoners.

12. Searches and Urinalysis Testing

- 12.1. Except in cases of emergency, transgender, transsexual and intersex prisoners are to be asked their preference regarding the gender of the Correctional Officers conducting strip search procedures.
- 12.2. In the case of urinalysis testing, prisoners must be asked their preference regarding the gender of the Correctional Officer conducting the procedure.
- 12.3. If the transgender, transsexual or intersex prisoner expresses no preference, search and urinalysis procedures should be conducted by Correctional Officers of the gender of identification of the prisoner.

13. Hormone Treatment and Gender Reassignment Surgery

- 13.1. Transgender, transsexual and intersex prisoners who commenced a hormone treatment program and/or gender reassignment surgery prior to imprisonment may continue treatment, at their own expense, if this is recommended by CPHS.
- 13.2. When a transgender, transsexual or intersex prisoner has not previously commenced a hormone treatment program, but requests for commencement of treatment in custody, they must be referred to CPHS for assessment. A recommendation for treatment, at the prisoner's expense, may be made by CPHS.
- 13.3. Since January 2010, some elective surgery procedures are no longer routinely performed in Tasmanian public hospitals. This includes gender reassignment surgery. Therefore, at the date of the release of this Standing Order, prisoners are not able to undergo gender reassignment surgery in Tasmania.
- 13.4. When a transgender, transsexual or intersex prisoner has not previously commenced gender reassignment surgery, but requests for commencement of surgery in custody, they must be referred to CPHS for assessment. A recommendation for surgery in Tasmania, at the prisoner's expense, may be made by CPHS.
- 13.5. Should a prisoner be successful in their request for the commencement of gender reassignment surgery, and should this surgery be available as an elective surgery procedure in Tasmania, the cost of any additional transport, escort and supervision costs may be charged to the prisoner at the discretion of the Director of Prisons. The Director of Prisons will require the costs be covered prior to the commencement of the surgery.
- 13.6. If hormone treatment and/or gender reassignment surgery is continued in custody, or hormone treatment is commenced in custody, CPHS must appropriately monitor the prisoner.

14. Document History and Access

Implementation Date	04/08/2017
Version Number	2.A
Date of First Issue	30/03/2009
Date of Further Amendments	28/05/2018
Additional Information	
Next Review Date	Five years from date of implementation
Access to this DSO	Routine Disclosure

Approved by:

Ian Thomas

Director of Prisons