

## Chapter 19

### TRANS PEOPLE AND THE CORONER'S COURT

#### KEY MATERIALS

##### Legislation

[Births and Deaths Registration Act 1953](#)

[Gender Recognition Act 2004](#)

[Equality Act 2010](#)

[Registration of Births, Deaths and Marriages Regulations 1968](#)

[Gender Recognition \(Disclosure of Information\)\(England and Wales and Northern Ireland\) \(No. 2\) Order 2005](#)

##### Other Guidance

[Equal Treatment Bench Book](#)

[NHS Bereavement: A guide for Transsexual, Transgender people and their loved ones](#)

#### Introduction

1. Cases in the coroner's court that involve trans people, whether as the deceased, the bereaved or a witness, may raise a range of legal, ethical and practical issues. This chapter aims to assist coroners with the specific issues that may arise during a coroner's investigation. For detailed assistance on appropriate terminology and information about the general difficulties trans people may face when involved in the justice system, please see Chapter 12 of the [Equal Treatment Bench Book](#).
2. The gender landscape is rapidly changing, as is the terminology in the field. Most individuals will find the terms 'trans' and 'transgender' to be acceptable descriptors, so they are used as umbrella terms in this chapter.

#### Respect for gender identity

3. Everyone is entitled to respect for their gender identity, private life and personal dignity.<sup>1</sup> In the case of a trans person, it is a matter of common courtesy to use the descriptor, the

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<sup>1</sup> See for example Article 8 ECHR and the aspirations within the [Universal Declaration of Human Rights](#) that all members of the human family be treated with inherent dignity.

personal pronoun and the name that they prefer. Therefore, if it is necessary to use any term at all, first establishing the preference of the person concerned will always be the more respectful approach.

4. When the person concerned is the deceased, the coroner will often need to establish their likely preference from the evidence of other people who were close to them in life. This can cause tensions where a close relative of the deceased does not approve of the deceased's own stance on their acquired or experienced gender; it may need to be carefully explained that the investigation and inquest concern the deceased, and so the coroner will generally wish to respect the deceased's autonomous choices.

## **Gender Recognition Certificates**

5. The [Gender Recognition Act 2004](#) ('GRA 2004') enables transgender people aged over 18 to change their legal gender by applying to the Gender Recognition Panel for a [Gender Recognition Certificate](#) ('GRC') which provides for legal recognition of a trans person's 'acquired gender'.<sup>2</sup>
6. A mix of legal and medical criteria must be satisfied. In brief summary, an application will be granted where the person has or has had gender dysphoria, has lived in the acquired gender throughout the period of two years ending with the date on which the application is made, and intends to continue to live in the acquired gender until death, and complies with other evidential and medical requirements. There is no requirement for surgical modification or other gender reassignment treatment before acquiring a GRC. A person may still retain male genital organs, and therefore present when naked as male, but if she possesses a GRC, she must, for most legal purposes, be regarded as female (and vice versa).
7. Where a full GRC is issued to a person, the person's gender becomes, for most legal purposes, that of their acquired gender. Their details will be entered on the Gender Recognition Register and then they can, if they wish, obtain a new birth certificate stating their acquired sex.<sup>3</sup>
8. [Section 9\(1\)](#) GRA 2004 explicitly conflates the concepts of sex and gender when it states:  
  
    'Where a full gender recognition certificate is issued to a person, the person's gender becomes for all purposes the acquired gender (so that, if the acquired gender is the male gender, the person's sex becomes that of a man and, if it is the female gender, the person's sex becomes that of a woman).'

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<sup>2</sup> Here the phrase '*acquired gender*' refers to the gender of those who have obtained a full GRC, and the phrase '*experienced gender*' refers to the gender of those who have not obtained a full GRC but who live permanently in a gender that differs from the gender assigned to them at birth.

<sup>3</sup> Gender Recognition Act 2004 [Schedule 3 part 1](#)

9. Although s9(1) GRA 2004 says the person's gender becomes for all purposes the acquired gender, there are some circumstances in which the section does not apply, as it is stated to be subject to 'provision made by this Act or any other enactment or any subordinate legislation'. In *For Women Scotland Ltd v The Scottish Ministers* [2025] UKSC 16, the Supreme Court decided that a person with a GRC whose acquired gender is female, is not a 'woman' for the purposes of the Equality Act 2010 and that 'sex' in that Act means biological sex. Whether s9(1) GRA 2004 applies in particular circumstances will therefore depend on the relevant legislation.<sup>4</sup>
10. For a variety of reasons many transgender people, including those who have undergone gender reassignment surgery, do not apply for a GRC. Some feel that legal recognition is not necessary for their day-to-day living, and some do not want to go down the route specified by the GRA 2004 which requires medicalising their position with a diagnosis of 'gender dysphoria'.
11. Moreover, it is not necessary to have a GRC to change some official documents or have many of the legal rights that come with a change of gender. For example a passport can be issued in a different gender from one's birth sex without a GRC if the person produces a letter from their doctor or medical consultant confirming their change of gender is likely to be permanent.<sup>5</sup> A driving licence will also be issued in a new name and gender if a deed poll and a statutory declaration of that new gender is provided.<sup>6</sup> Similarly a transgender person who has had gender reassignment surgery and lived in their experienced gender for a significant period but has not obtained a GRC must still be recognised in their experienced gender for State Pension purposes.<sup>7</sup>
12. Obtaining a GRC does not create a new name, nor create any right to adopt and use a new name, as no such right is needed (see 'Recording the name of a deceased trans person' below). The GRC will be issued in the name the person was choosing to use when they applied for the GRC.

### **Revealing a person's trans history**

13. It is unusual for a participant's gender to be an issue in a coronial case, or for it to be an essential legal requirement in an inquest for a living person to disclose their previous name or gender, unless there is some relevant dispute about this. Making inquiries into

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<sup>4</sup> Their Lordships did not consider that their decision in *For Women Scotland* was of universal application. See §108: "... We note only that the effect of the rule in section 9(1) on the very many statutes referring to men and women, whether enacted before or after the GRA 2004, must be carefully considered in the light of the wording, context and policy of the statute in question. It is likely to be unhelpful for the coherence of the law to impose a stringent test for the application of section 9(3)."

<sup>5</sup> See: information on the Gov.UK website [here](#) and HM Passport Office *Applying for a passport: Additional information for transgender and transsexual customers* [here](#)

<sup>6</sup> See Gov.UK *Identity documents needed for a driving licence application* ([here](#))

<sup>7</sup> *MB v Secretary of State for Work and Pensions* [2018] Case EU: C-451/16. [2018] All ER (D) 135 (Jun)

someone's previous name or gender, or requiring them to state their previous name or gender in public, may be intrusive and offensive. This is not only a matter of respecting a person's dignity and offering appropriate courtesy to court users. To reveal this information could breach their rights under Article 8 European Convention on Human Rights (ECHR) (right to respect for private life), unless such disclosure is relevant and necessary for the proper conduct of an inquest.<sup>8</sup>

14. The GRA 2004 also explicitly prohibits disclosure (without the subject's consent) of the fact that a person has applied for, or has obtained, a GRC. Under s.22(1) it is a criminal offence for someone who has acquired this 'protected information' in an official capacity (which would include a coroner or coroner's officer) to disclose it to any other person.
15. There are a number of exceptions to s.22(1) when disclosure may be lawfully made. These include where consent has been given, under s.22(4)(b),<sup>9</sup> or under s.22(4)(d) where a court order has been made, or under s.22(4)(e) where the disclosure is for the purpose of proceedings before a court or tribunal. This affords a degree of protection from criminal sanctions to disclosure within coronial proceedings, but such exceptions should be interpreted narrowly given the policy intention behind s.22 GRA 2004, and that revelation of this confidential information at a public court hearing may mean the person cannot practicably re-gain their privacy.
16. In the absence of the person's consent, to disclose that someone has changed their gender should be treated as a serious step. A person's gender at birth or their transgender history should never be disclosed unless it is necessary and relevant to the fundamental purpose of the coronial investigation or proceedings.
17. In the rare circumstances where it is necessary to disclose a person's previous name or transgender history at an inquest, the coroner will need to consider whether Article 8 ECHR justifies making a direction to prevent the onward disclosure of the information. This may be best considered at Pre Inquest Review hearing partially held in private, initially excluding the public and media, under rule 11(5) of the Coroners (Inquests) Rules 2013 if the coroner considers that to do so would be in the interests of justice. Once matters have been revealed in open court the coroner's powers to limit ongoing publication by the media will be limited.

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<sup>8</sup> Coroners' courts are considered public authorities for the purposes of s.6 of the [Human Rights Act 1998](#). The ECHR Article 8 right to privacy can only be interfered with by a public authority on certain narrow grounds set out in Article 8(2), and only then if the interference is necessary and proportionate. In [ML v Slovakia](#) no. 34159/17 [2021] the ECHR accepted that dealing appropriately with the dead out of respect for the feelings of the deceased's relatives falls within the scope of Article 8. The reputation of a deceased member of a person's family may also, in certain circumstances, come within the scope of Article 8 (see [Putistin v Ukraine](#), no. 16882/03, [2013])

<sup>9</sup> It may be possible to infer the deceased's consent if there is persuasive evidence that the deceased was open about their trans status, or it may be part and parcel of the cause of their death – for example, they may have referred to their trans status in a final letter.

## Obtaining information from the Gender Recognition Panel

18. Generally, the advice given to coroners about obtaining information from other judges is that judges are expected to make informal requests of one another, at least in the first instance. However, as a result of s.22 GRA 2004, if a coroner needs to obtain confirmation from the Gender Recognition Panel that the deceased held a GRC<sup>10</sup>, an order under Schedule 5 Coroners and Justice Act 2009 must be made. An example of an order is attached at Appendix 19.1.
19. The email address to which orders should be sent is: [GRPenquiries@justice.gov.uk](mailto:GRPenquiries@justice.gov.uk).

## Post-mortem examination reports

20. When liaising with a pathologist over a trans person's death the coroner will need to have s.22 GRA 2004 firmly in mind.
21. It is arguable that the exception under the [Gender Recognition \(Disclosure of Information\)\(England and Wales and Northern Ireland\) \(No. 2\) Order 2005](#) §5, which permits the disclosure of protected information to a health professional if the disclosure is made for medical purposes, permits information being given to the pathologist regarding a deceased GRC holder's trans status before the conduct of a post-mortem examination *if* this is reasonably necessary.
22. Where it is not necessary for the pathologist to know the person has transitioned and the person has a GRC, it may be necessary to redact any medical notes provided to a pathologist to remove any reference to birth sex, gender dysphoria and/or treatment for the same, so as not to infringe s.22 GRA 2004. This situation may arise where a limited targeted autopsy, or a 'toxicology only' post-mortem examination, has been requested.
23. Where the deceased has transitioned, the coroner should consider whether any observations or comments within a post-mortem examination report regarding the deceased's trans status, or any observed anatomical structures of the deceased, are relevant to an inquest's scope and purpose. The pathologist may need to be reminded of s.22 GRA 2004 and be asked not to include irrelevant matters in the post-mortem examination report. Alternatively, the pathologist might be asked to present any details they believe are necessary to record but which reveal a person's trans status, in an addendum report which the coroner can then consider whether to disclose.
24. Otherwise, any irrelevant details recorded in a post-mortem examination report that reveal a person's trans status may need to be redacted before disclosure to others.

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<sup>10</sup> Coroners should note that the Gender Recognition Panel does not retain copies of GRCs. Coroners will therefore be able to obtain official confirmation that a GRC was granted and the date that one was granted, but will not be able to obtain a copy of the certificate itself.

## Identifying Interested Persons (IPs)

25. The family arrangements of some trans people may cause difficulties in identifying the appropriate family IPs due to issues around the legality of marriages and civil partnerships for those who obtain a GRC. In addition, some trans people may be estranged from their relatives who may never have known the deceased in their acquired or experienced gender. In such cases coroners and coroners' officers have to apply common sense, tact, and fairness in deciding who to recognise as the next of kin/family contact point if the family members cannot agree this amongst themselves.
26. In the case of spouses and partners, identifying entitlement to be an IP may depend upon whether or not a full GRC has been issued and when it was obtained.
27. Before July 2013, marriages could only exist between opposite-sex couples. This meant that a person who was in a marriage who transitioned and obtained a GRC would find their marriage invalidated by the GRC. However, after the enactment of the [Marriage \(Same Sex Couples\) Act 2013](#), the marriage could be preserved under Schedule 5 of that Act with the consent of their non-trans spouse.
28. Until December 2019, civil partnerships could only exist between same-sex couples.<sup>11</sup> This meant that before 2019, a person who was in a civil partnership who transitioned and obtained a GRC, would have their partnership dissolved unless it was converted to a marriage with the consent of the non-trans partner. A civil partnership could only be preserved if both partners transitioned and their GRCs were issued on the same day.
29. Since December 2019, the continuity of a civil partnership or marriage has not necessarily been affected by the relevant change in gender on issue of a GRC. With the consent of a partner, a full GRC can be issued and the marriage/civil partnership will continue. If the spouse/partner does not consent, an interim GRC will be issued with which the person might apply for an annulment, divorce or dissolution. Once the trans person is no longer married or in a civil partnership, a full GRC can be issued.
30. Transitioning without obtaining a GRC has never affected the status of any pre-existing marriage or civil partnership. Those who were married or in a civil partnership when they transitioned but have not applied for and/or obtained a GRC remain in a lawful union with their spouse/partner unless they have since divorced or dissolved that union.

## Disclosure of documents related to a deceased trans person

31. When considering disclosure to IPs for an inquest, particular care should be taken to ensure that only material that is relevant to determining the statutory questions is disclosed to avoid any breach of s.22 GRA 2004 or infringement of any person's Article 8 rights.

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<sup>11</sup> When the [Civil Partnership \(Opposite Sex Couples\) Regulations 2019](#) came into effect

32. Unless their trans status is relevant to the cause of death, or the person's experienced gender is in dispute, the medical notes for a deceased trans person may need careful review and redaction to ensure that reference to their sex assigned at birth, gender dysphoria, transitioning and any related therapy is removed.

### **Recording the name of a deceased trans person**

33. A person's gender or trans status is largely irrelevant to the question of what their name is, as the name of a person under English law is not a matter of legal formality. Rather, "in English law a person's name is that by which he himself chooses to be known"<sup>12</sup> therefore anyone can choose to change their name at any time. Whilst many people will continue to use the name given to them at birth ('given name') throughout their life, there is no requirement in law to do so. A deceased person need not be registered by the given name on their birth certificate. As stated in [Ganoun v Joshi](#):<sup>13</sup> "there was nothing improper in allowing the deceased to be buried under the name which he had always used since he had lived in the UK. Although it was not the name which he had been born with."

### **Recording the sex of a deceased trans person**

34. Where the deceased has a full GRC then, regardless of their sex on their original birth certificate, the deceased should for all purposes (unless s9(3) of the GRA 2004 applies) be regarded as the gender (and sex) shown on the GRC. However, having a GRC is not a pre-requisite to living as a gender that is different from one's sex as recorded at birth. A person recorded at birth as male can have lived for many years as female, changed their name to a female one, have key documents recording their new name and sex (such as a passport, driver's licence, credit cards and bank statements) and even be collecting a woman's or widow's pension in that name. Without a GRC that woman cannot obtain a birth certificate in her new gender, nor will she have all the legal rights that flow from the possession of a GRC, but to all intents and purposes she is otherwise regarding herself, and no doubt would wish to be regarded by others, as female. So what sex should appear on a trans person's death certificate, and does the answer depend on whether the person had a GRC?
35. When a person dies and their death is registered, regulation 39 of the [Registration of Births and Deaths Regulations 1987](#) requires the 'particulars of death' as set out on parts 1-7 and 9 of Form 13 to be recorded. This includes the person's name and surname, and sex. However, there is no definition of 'sex' in the legislation. Where an inquest is held, s.10(1)(b) Coroners and Justice Act 2009 requires the coroner (or jury) to 'make a finding' as to the particulars required for registration. Such registration particulars as are found will

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<sup>12</sup> See Hale J (as she then was) in [Buchanan v Milton](#) [1999] EWHC B9 (Fam), [1999] 2 FLR 844

<sup>13</sup> [2020] EWHC 2743(Ch). A case dealing with burial rights over a body where the deceased had for immigration reasons, adopted a new name and date of birth on his arrival in the UK 15 years before his death.



then be certified by the coroner and sent to a Registrar.<sup>14</sup> The Registrar is bound by law to record in the register of deaths the particulars that the coroner records, without alteration.<sup>15</sup>

36. As has already been noted<sup>16</sup>, the Supreme Court decision in *For Women Scotland Ltd*<sup>17</sup> does not determine the interpretation of the term ‘sex’ in any other legislation. There is no case law on what ‘sex’ means in the death registration context, so it is open to interpretation.
37. It is the Chief Coroner’s view that the law does not prevent a trans person’s death being registered in the deceased’s experienced or acquired gender (whether the person has or has not got a GRC). There is no stipulated requirement for the sex recorded at death to be the same as the deceased’s birth sex, and a person’s entry on the register of deaths is not formally matched up to any entry on the register of births. Where a trans person’s family are responsible for registering the death, they are not required to provide a birth certificate; presenting a passport as proof of the deceased’s identity will suffice. They are therefore able to choose to provide registration details that include the sex relevant to the person’s acquired or experienced gender. It would be consistent for the coroner (or jury, if there is one) to determine on the evidence available to them the person’s sex based on their acquired or experienced gender.
38. It is therefore suggested that if, after full inquiries, a coroner concludes from the available evidence that, on the balance of probabilities, a deceased person had chosen to present permanently as female, the coroner is entitled to regard the deceased as female and may choose to record this as their sex. Similarly, if after making inquiries a coroner concludes a person has chosen to present as male then the coroner can regard them as male and may choose to record the same.
39. If the Chief Coroner’s view is correct, then if a person’s experienced or acquired gender is not in dispute and the person’s trans status is not a relevant issue in the inquest for some other reason, the public and any media attending an inquest do not need to be made aware of a GRC or that the deceased was trans. Where there is a jury, it will also usually be unnecessary to disclose to them that the deceased was trans, even for the purposes of recording the registration particulars. The jury can simply be directed as to what they should record for the person’s sex where that is not contentious. The coroner should have s.22 GRA 2004 and Article 8 of the ECHR firmly in mind and give careful consideration before disclosing any protected information in open court.
40. In respect of a non-binary or gender fluid person, the position is more complicated. There is no definition of ‘sex’ in the Births and Deaths Registration Act 1953 or in the

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<sup>14</sup> Usually using a form 99 ‘Certificate after Inquest’.

<sup>15</sup> Births and Deaths Registration Act 1953 [s.23](#)

<sup>16</sup> see para [9] above

<sup>17</sup> *For Women Scotland Ltd v The Scottish Ministers* [2025] UKSC 16



Registration of Births and Deaths Regulations 1987, and whether ‘non-binary’ is an acceptable category of ‘sex’ on the register of deaths has not been considered by the courts. Case law has however confirmed that the Gender Recognition Panel has no power to issue a non-binary GRC<sup>18</sup> and that ‘sex’ in the Equality Act 2010 is a binary concept<sup>19</sup>. It is therefore likely that if stated, ‘sex’ will need to be expressed as either male or female. However, there appears to be no reason why a coroner could not find and certify that a non-binary or gender-fluid person’s sex was ‘*unascertained*’ (or leave that entry on the form blank) if the coroner considered that the classification of the deceased person’s sex as being one of the two binary categories was not made out on the evidence.

41. Each case must of course be dealt with on its specific facts. Information that may be obtained to assist the coroner (or jury, where applicable) when making determinations about a deceased person’s sex for registration purposes will include:

- (i) whether the deceased has a GRC;
- (ii) whether there is any evidence of the deceased having had gender re-assignment surgery or taking hormone therapy;
- (iii) the name used by the deceased and which they asked others to call them at the time of their death;
- (iv) the gender and name revealed by any documentation the deceased recently used (driving licence, staff card, credit card, store card, medical card, passport);
- (v) any other evidence that the deceased lived as a gender different from their birth sex (including accounts from others of the deceased’s expressed gender);
- (vi) any evidence that the deceased was only temporarily cross-dressing when they died.

This is not an exclusive list of matters that may be taken into account. Any evidence offered by those who knew the deceased should also be taken into consideration.

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<sup>18</sup> see *R (Castellucci) v Gender Recognition Panel* [2024] EWHC 54 (Admin), [2024] KB 995

<sup>19</sup> *For Women Scotland Ltd v The Scottish Ministers* [2025] UKSC 16.

## **Appendix 19.1**

### **Schedule 5 notice addressed to the Gender Recognition Panel, requiring evidence to be given regarding a Gender Recognition Certificate**

[Add personal header including: Name, Title, Coroner Office address, Contact email/telephone number]

#### **NOTICE REQUIRING EVIDENCE TO BE GIVEN OR PRODUCED**

Made in accordance with paragraph 1 of Schedule 5 to the Coroners and Justice Act 2009  
In the [area] Coroner's Court

To the Gender Recognition Panel

Investigation/inquest into the death of: [name of deceased]  
Date of birth:

I hereby give notice that you are required to provide the following evidence in the form of a written statement confirming:

1. Whether [name of deceased] held a Gender Recognition Certificate;
2. If so, whether it was an interim or full Certificate and the date it was issued.

This information is required by: [date]

If you consider that you are unable to comply with the terms of this notice or consider that it would be unreasonable to require or compel you to do so, you must make representations to the coroner by: [date]. Any such claim will be considered by the coroner, who may revoke or vary the notice.

If you fail to comply with the terms of this notice without reasonable excuse you may be liable to a fine not exceeding £1,000 (Paragraph 6 of Schedule 6 to the Coroners and Justice Act 2009).

It is an offence to do anything that is intended to have the effect of:

- a) distorting or otherwise altering any evidence, document or other thing that is given, produced or provided for the purposes of an investigation under Part 1 of the Coroners and Justice Act 2009, or
- b) preventing any evidence, document or other thing from being given, produced or provided for the purposes of such an investigation,

or to do anything that the person knows or believes is likely to have that effect.

It is also an offence for a person:

- a) intentionally to suppress or conceal a document that is, and that the person knows or believes to be, a relevant document, or
- b) intentionally to alter or destroy such a document.

A person guilty of such offences is liable on summary conviction to a fine not exceeding level 3 on the standard scale, or to imprisonment for a term not exceeding 51 weeks, or to both (Paragraph 7 of Schedule 6 to the Coroners and Justice Act 2009).

Date:

Signature: XXXXXXXXXX

[Senior/Area/Assistant Coroner] for [area]