



Our needs ARE essential!

An open letter to the Minister of Home Affairs Hon. P.A. Motsoaledi, The Presidency of the Republic of South Africa, the NCCC, and all representatives of the Department of Home Affairs

24 August 2020

Hon. Dr Pakishe Aaron Motsoaledi
Minister of the Department of Home Affairs
Minister@dha.gov.za

Dear Minister Motsoaledi,

Re: Transgender and Gender-Diverse Persons and Essential Services at the Department of Home Affairs during lockdown

This letter is addressed to you as a joint effort by the following human rights organisations – Irant, Gender DynamiX, The Triangle Project, Matimba, Trans Hope, Transgender and Intersex Africa (TIA), Same Love Toti, Be True 2 Me, Women’s Legal Centre (WLCE), Legal Resources Centre (LRC) and Access Chapter 2.

In 2020, South Africa was hit by an unprecedented health and safety crisis when the global COVID-19 pandemic reached our country – and in response the Government of the Republic of South Africa adopted some of the most proactive and wide-reaching regulations in the world. We thank those who have worked tirelessly these past months to keep our society safe and understand the incredible sacrifices that we all have had to make for the greater good.

However, as part of those safety initiatives, the Department of Home Affairs (DHA) cut down its service provision to only that deemed to be “essential”, which left many transgender and gender-diverse individuals in this country stuck with legal documents which do not reflect their identities. Beyond merely being an inconvenience, the withdrawal of forename and sex-descriptor amendments, along with a range of other key services, has resulted in **employment discrimination, medical service denial, and undue stress on young persons trying to express themselves authentically and safely at school. Some have even faced harassment and violence.** At every turn the needs of transgender and gender-diverse South Africans are considered merely “cosmetic”, or too niche to warrant the appropriate allocation of resources. But while the safety of DHA staff during a pandemic is vital – so too is the safety of transgender and all other LGBTI+ persons, regardless of any state of disaster we find ourselves in.

Iranti, in collaboration with the signatories to this letter, has conducted a survey into the impact of COVID-19 restrictions on transgender and gender-diverse individuals seeking services at the DHA. It makes for uncomfortable reading. 0% of respondents who sought vital sex-descriptor or forename amendments were successful, while 0% of those simply trying to follow up on applications made prior to the pandemic lockdown were able to get basic information on their application status or collect documents. Consequently, 0% of respondents believe that the DHA takes their needs as trans and gender-diverse persons seriously. The full report results, which look at the experiences of respondents between levels 5 and 3 of lockdown, can be found [here](#).

We find it unacceptable that the State can so blatantly ignore and undermine any group within it, and had hoped that the issue would have been largely rectified after President Ramaphosa's 15 August announcement that the country would be easing restrictions and moving to Level 2.

Transgender and gender-diverse persons across the country – including many of the original respondents to the survey – waited anxiously for Level 2 in order to finally put their lives back on track. Indeed, some DHA offices had said that the aforementioned services would resume under Level 2 (though others have claimed service will resume under Level 1 and some have admitted ignorance to when they will be allowed to offer these services again). Per official communications from DHA representatives and social media accounts, we have gathered that the Minister will make a pronouncement on the matter at some unstated point in the coming days.

We note that on the morning of 21 August the official DHA Twitter account released a series of updates for services to be rendered under Level 2, which included many of those required by our community. Not long after, however, these tweets were deleted without any notice or clarification, leaving the South African public in the dark once more.

We find it unacceptable that a branch of our government can so easily delay the communication of updates that are vital to so many across the country. For better or worse, businesses are opening up and offering services once more, and so too must government.

We therefore call on the Minister – as well as his colleagues in the NCCC, The Presidency, and all DHA staff across the country to immediately implement the following:

- Allow for birth certificate applications, forename amendments and sex-descriptor amendments (per *Act 49 of 2003*) to be made under Level 2 of lockdown.
- Ensure that forename amendments and sex-descriptor amendments are made available at all Levels of lockdown as they constitute life-saving and essential services for transgender and gender-diverse persons.
- Ensure that confirmation letters for amendments are issued without delay. These again are crucial and essential for transgender and gender-diverse persons.
- Expedite the processing of ALL applications for new identity documents, name-changes, and sex-descriptor changes – prioritising especially those who made applications prior to the lockdown who have been waiting in limbo for much of 2020.
- Explicitly instruct DHA staff in every DHA office within the Republic to offer and facilitate the aforementioned services – transgender and gender-diverse people have historically faced undue difficulties in having their applications processed by the DHA, and we can ill-

afford for this to continue when every member of our community is more vulnerable and concerned than ever before.

The Department of Home Affairs is a vital institution for the safety and wellbeing of transgender and gender-diverse South Africans, and we note that the Department has made positive strides towards advancing trans and intersex rights when it had representatives join Iranti and other delegates on a legal gender recognition study tour to Malta in 2019. We therefore do not wish to turn this into a battle, and rather ask that you work with us to find an amicable way forward that respects both the need for safety during a pandemic, and the needs of our communities.

Please do not hesitate to contact the following organisations, who are signatories to this letter, for further comments or queries:

Iranti – kellyn@iranti.org.za, sibusiso@iranti.org.za

Gender DynamiX – advocacy2@genderdynamix.org.za

Transgender and Intersex Africa – siya.tial01@gmail.com

Be True 2 Me – lee-anne@betrue2me.org

Triangle Project – estian@triangle.org.za

Matimba – akani@matimba.org.za

Trans Hope – director@transhope.co.za

Same Love Toti – samelovetoti@gmail.com

Access Chapter 2 – steve@ac2.org.za

Legal Resources Centre – mandy@lrc.org.za

Women's Legal Centre – charlene@wlce.co.za

Copy to:

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and

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