

23 August 2020



OUR NEEDS ARE ESSENTIAL

Report on the results of the survey on the impact of COVID-19 on gender-affirming services for transgender individuals at the Department of Home Affairs

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Published by Iranti in collaboration with Gender Dynamix, Transgender and Intersex Africa (TIA), Be True 2 Me, Triangle Project, Same Love Toti, Access Chapter 2, Legal Resources Centre (LRC), Women's Legal Centre (WLCE), Trans Hope, Matimba and allies.



Dignity, Equality and Freedom



Introduction

In the wake of the 2020 coronavirus pandemic, the government of South Africa took a number of measures to mitigate the spread of the disease and save the lives of as many residents as possible. These measures included the closing down of public spaces and movement and limiting government services to only those which were essential. The Department of Home Affairs (DHA), which handles births, deaths, marriages, immigration, and most matters pertaining to citizenship, identity and civil registries, had its own services heavily curtailed as a result.

Among the many services deemed non-essential were several which are vital to transgender and gender-diverse persons across the country, namely the change of forenames, and the amendment of legally recognised gender amendments under the *Alteration of Sex Description and Sex Status Act (Act 49 of 2003)*.

The following document outlines the findings of a survey by Johannesburg-based LGBTI advocacy organisation, Iranti, which sought to determine the extent to which the lockdown has affected transgender South Africans seeking to amend their personal details through the DHA. It is just one of multiple data-gathering actions taken by the organisation in assessing the status of LGBTI+ communities across Southern Africa during the ongoing pandemic.

Methodology

This survey was shared on Iranti's social media platforms between 24 July and 16 August – most notably with a paid promotion on Facebook between 30 July and 9 August to a targeted audience living in South Africa aged 15 and above, with interests in a range of topics relating to trans and LGBTI+ identities and events. Further, the survey was shared among several allied organisations and individuals with the request for them to share it with any known trans persons interacting with the DHA.

The survey specifically looked at the experiences of trans persons regarding a number of core gender-affirming services as well as general service-delivery relating to those services, and deals only with experiences under lockdown levels 5, 4 and 3.

The August 15, 2020, announcement of a further lifting of pandemic restrictions to level 2 and the impact this has on the data will be addressed in its own chapter.

The survey's findings are limited by the linguistic diversity of South Africa as well as the digital divide in which persons living in rural settings or on a low income may have struggled to access online surveys of this nature. Many persons who might ordinarily be labelled as trans may even be unaware of the label itself and therefore unaware of the possibility of amending their details at the DHA.

The findings may also be limited by the fact that within an already small population, respondents are limited to a minority of trans persons who would have attempted to access the DHA services during the lockdown. However, the number of respondents was sufficient to present a clear picture of how the Department of Home Affairs has interacted with transgender and gender-diverse persons.

Findings

The survey findings show a clear disregard by the DHA for the rights of transgender and gender-diverse persons during the pandemic. The details thereof are expanded upon in the sub-sections below, though a relatively simple summary can be put forward:

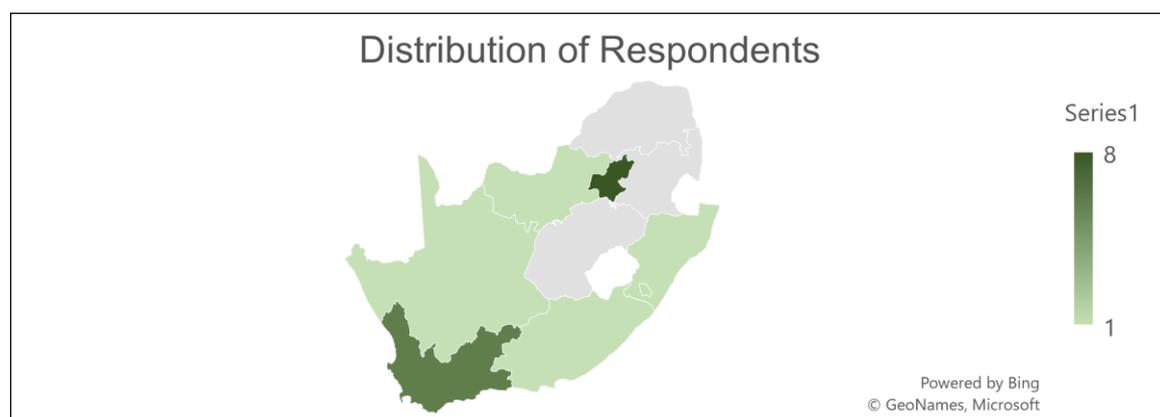
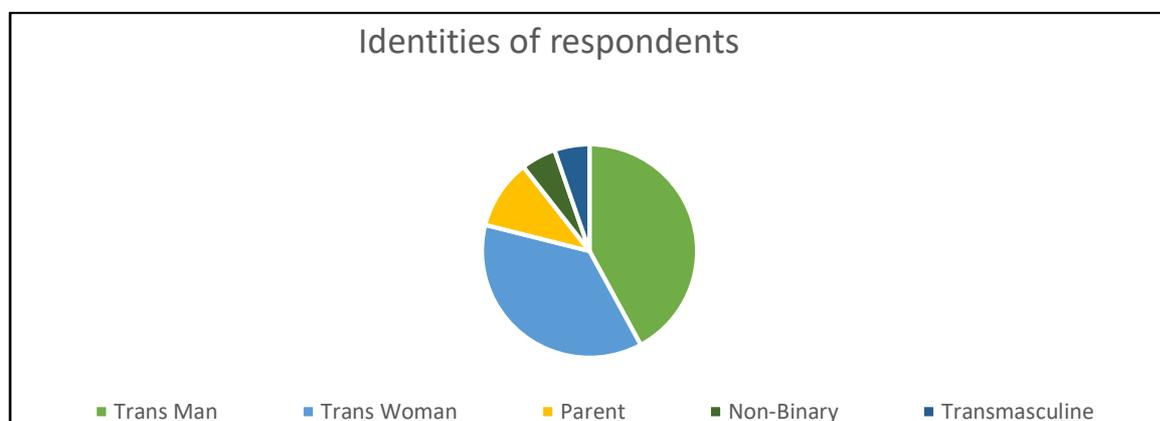
Transgender and gender-diverse people across the country have had their needs deemed non-essential by the DHA and, by extension, the South African government. Respondents from every corner of the Republic noted that they were unable to access services vital to the fulfilment of their human dignity, with little to no input or information forthcoming from the DHA about when the situation would change. This has resulted in respondents indicating a significant lack of trust in the DHA to address their needs. Not being able to access these services puts trans people at heightened risk of violence and discrimination.

The full findings of the survey as submitted by respondents will be tabulated in **Annex 1**.

Demographics

The survey was completed by 19 respondents of varying age, race and class across South Africa (all counting themselves as citizens of the Republic), with a majority clustered around Gauteng and the Western Cape with four (4) individual exceptions who applied in Kwa-Zulu Natal, Eastern Cape, Northern Cape and North West Province. Barring two cisgender parents who filled out the form on behalf of their transgender children who are minors, all respondents identified in some way as transgender.

- 8 respondents identified as trans men;
- 7 respondents identified as trans women;
- 1 respondent identified as transmasculine but did not specify further;
- 1 respondent identified as non-binary;
- 2 respondents are cisgender parents of transfeminine minors.



Types of applications made

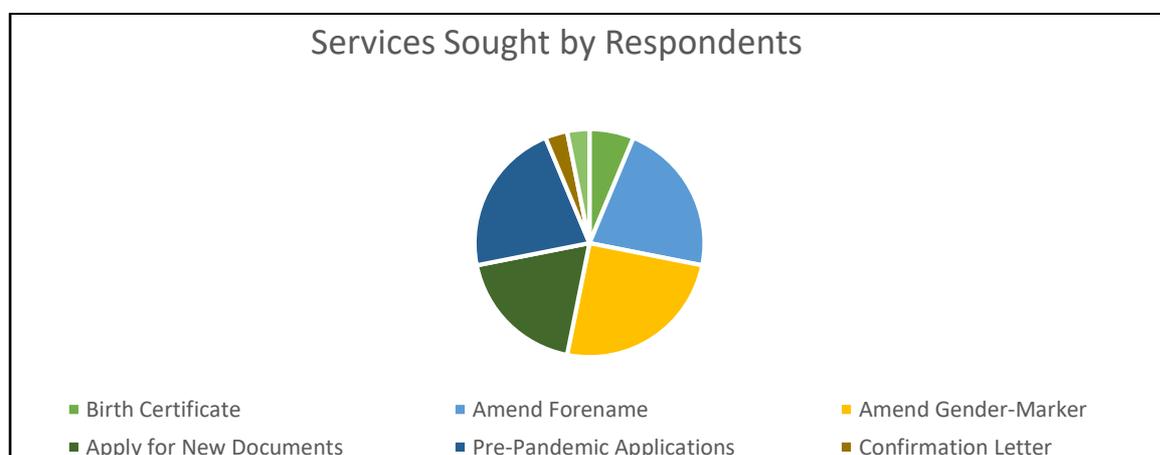
Barring a trans man who successfully got married (with marriage being a service provided by the DHA during the lockdown), not one applicant was successful in their search for gender affirming care.

- 1 respondent requested an abridged certificate (a service which involves merely printing a piece of paper in the office) and was told: **“Come back after lockdown”**;
- 1 respondent requested an unabridged birth certificate and was told: **“We can make the application if you have requested it before, but not if it is your first request. The person responsible isn’t in the office during level 3. Try again in level 2 or maybe level 1.”**;
- 7 respondents tried to amend their forenames, and a sampling of DHA responses includes: **“DHA unable to assist with new ID applications during lockdown”**; **“Come back after lockdown”**;
- 8 applicants tried to amend their gender-markers (sex descriptors) and DHA a sampling of DHA responses includes: **“That service is not available currently and there was no directive on whether it would be available again before Level 1”**; **“Service not available as it’s not essential”**;
- 6 respondents had attempted to apply for new documentation such as ID documents, though DHA had made public communications explicitly stating that this service would be unavailable during lockdown.
- 5 respondents tried to follow up on applications made prior to the lockdown, with most respondents noting that the DHA simply did not answer their phones or respond to their requests at all.
- 2 respondents attempted to pick up documentation that was ready, with one respondent unable to contact DHA and the other told to **“come back after lockdown”**.
- 1 respondent sought a confirmation letter from the DHA – a document which can be used as evidence of identity amendments when making changes with the Traffic Department, banks, etc.

The above is a clear indication that name and gender-marker changes are very important to trans-identified persons. However, based on the responses given by the DHA, there does not seem to be any clear, central guidance to Home Affairs offices across the country on when they will be allowing access to gender-affirming services.

For some offices to claim they will be operational again under level 2 while others indicate they will resume under level 1 and some only post-lockdown, is an unacceptable lack of clarity on the part of the DHA.

It is a clear sign that gender-affirming services are not considered essential to trans persons. As will be outlined later in this document, these services are in fact just that: essential.



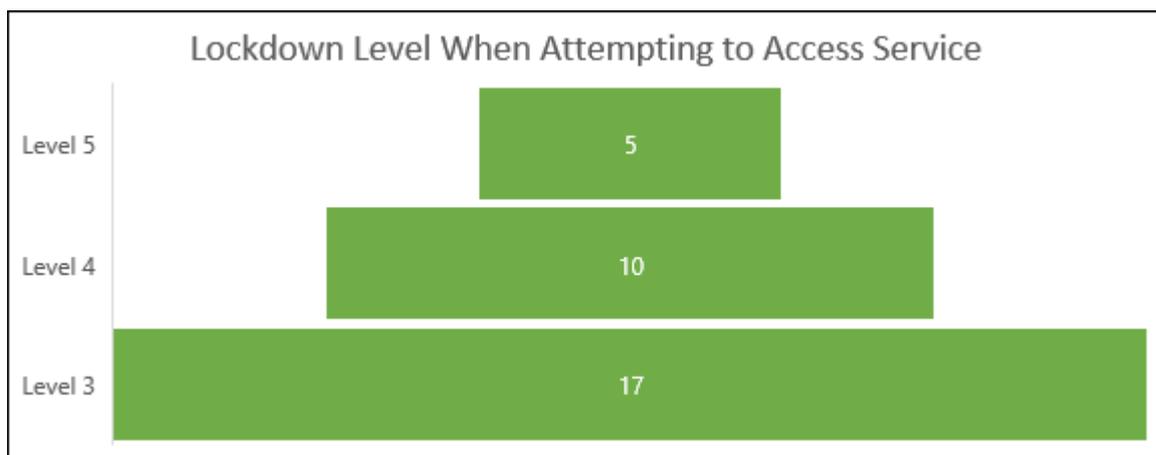
Timing of applications

Given some of the above statements from DHA officials and a lack of accessible avenues for communication with the DHA, it is little wonder that respondents to the survey and the wider trans community remain confused and anxious about when they will be able to access services.

Most respondents applied during level 3 of lockdown and the fewest in level 5 (where lockdown measures were at their strictest). This seems to indicate a desire to respect lockdown safety regulations, or a growing desperation to access these services on the part of the trans community. Otherwise, one would expect to have seen a more equal distribution of attempts to access DHA services across levels 1, 2 and 3.

- 5 respondents (26.3%) attempted to access services during level 5;
- 10 respondents (52.6%) attempted to access services during level 4;
- 17 respondents (89.5%) attempted to access services during level 3.

Readers will note that the total goes well above 100%. This is due, it seems, to respondents attempting multiple times to access gender-affirming services at the DHA, hoping every time lockdown measures are loosened that they will now be given access to vital services. These repeated attempts are also a further indictment of the DHA's inability to communicate clearly when services for trans-identified persons will resume.

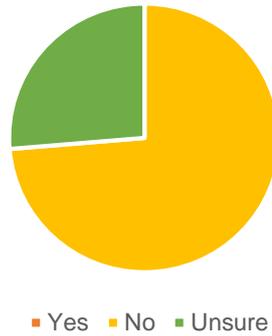


Does the Department of Home Affairs take the needs of trans and other LGBTI+ persons seriously during the Covid-19 pandemic?

This question was posed to applicants in order to assess the feelings of respondents toward DHA not just in terms of their own experiences, but in terms of the experiences of countless other individuals who may not have been able to access this survey.

- 5 respondents (26.3%) said they were unsure;
- 14 respondents (73.7%) said no;
- 0 respondents (0%) said yes.

Do Respondents Feel DHA Takes Them Seriously?



Level 2

On Saturday 15 August 2020, President Cyril Ramaphosa announced an easing of lockdown measures from level 3 to level 2. It must be noted that while this was done out of necessity, given the major impact these safety regulations have had on the South African economy, the pandemic continues across the globe and within the borders of South Africa. Many had hoped that the stated need for the country to get back to work would naturally include government services, such as those offered by the DHA pre-lockdown, however, several days without official communication on the matter passed before the DHA Twitter account posted the following on 19 August:



- ***“#dhaservices remains the same until we announce and table the services that will be available under lockdown level2”***
- ***“#Lockdown #Level2 #DHAServices will be communicated in due course...”***

There was no indication of when “in due course” those in need of services could expect new information. This indicates a concerning lack of communication not only between the DHA and members of the National Coronavirus Command Council (NCCC), but also between the DHA and the citizens and residents of the Republic. In lieu of formal public notice, the following attempts were made to reach out to the DHA in order to ascertain how, if at all, the easing of restrictions would relate to the findings in this survey and the needs of the respondents:

- *12 attempts were made to contact representatives of the DHA telephonically. 10 to a number of Home Affairs offices highlighted by survey respondents, 1 to the DHA national helpline, and 1 to the Director General of the DHA, Jackie McKay.*
- *8 Emails were sent to a selection of Home Affairs offices highlighted by the survey respondents, as well as to the Minister of Home Affairs, Hon. P.A. Motsoaledi, and Director General Jackie McKay.*

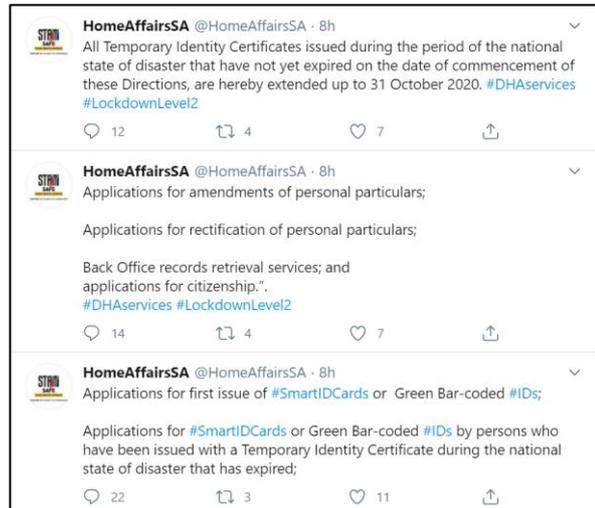
Of these attempts, only two responses were received at the time of writing:

- Port Elizabeth CBD Home Affairs (telephonic): **“We cannot update our services until informed by the Minister”**. It was not known when the Minister will make these pronouncements.
- Director General of Home Affairs (telephonic/SMS): **“Please await the directions that will be published by the Minister next week”**. No responses to follow-up texts regarding specific dates or whether gender-affirming care would be included were answered.

The list of branches and representatives contacted is nowhere near exhaustive, and this is due in part to a limitation on time and resources, but a full list can be found in **Annex 2**.

While in the process of seeking clarity from the DHA, the Department’s official Twitter account posted on 21 August 2020 a series of updates to the services which would be allowed. These seemed to include several services which would empower trans individuals to amend their names and genders legally:

- Applications for Smart ID Cards or Green Barcoded IDs by persons who have been issued with a Temporary Identity Certificate;
- Applications for amendments of personal particulars;
- Applications for rectification of personal particulars;
- Back Office records retrieval services.



However, sometime after these tweets were sent to the public, they were quietly deleted without notice or explanation, once again leaving trans individuals and the wider public entirely in the dark about important services.

Why does this matter?

While the Department of Home Affairs has made it clear that it does not consider gender-affirming services (alongside a wide range of other general services) to be essential during the pandemic, this betrays the underlying belief that transgender and gender-diverse persons make only superficial changes to their identities and do so for a range of reasons (fun, confusion, sexual pleasure) other than the single core reason of trans people intrinsically being the gender they claim to be.

Trans people in South Africa face high levels of violence because of their identities, and this is exacerbated by medical, state-backed, educational and employment discrimination if their legally recognised gender and name does not match their outward gender expression. There is much to be said about the intersecting oppressions, aggressions and inconveniences faced by trans people in school, seeking employment, or incarcerated at correctional facilities - and the countless trans and gender-diverse South Africans who have been brutally murdered and mourned by members of the organisations backing this document - but the responses received in the survey likely put it most plainly.

When asked if they felt they had experienced violations because their documentation does not match their gender expression:

- 8 respondents felt it was the cause of verbal or psychological abuse;

- 2 had experienced physical violence;
- 4 had experienced discrimination from healthcare providers;
- 7 had experienced discrimination from current or potential employers;
- 5 had experienced discrimination from teachers or educational institutions;
- 4 were unable to update their details at other institutions such as work, or could not continue with day-to-day functions such as marriage;
- 5 did not respond, implying they had not yet faced violations.

Readers will note that the total violations reported above then come to 30 out of 14 respondents who claimed violations. This simply highlights the intersecting nature of the difficulties faced by trans people at every turn when dealing with wider society as a result of not being able to access gender-affirming services.

When asked if they felt they would benefit from the gender-affirming services not offered by DHA during the lockdown, respondents said the following:

“Yes. I need to apply for a new job as Covid-19 has robbed me of employment. I cannot stop people from deadnaming me if I don't have official documentation. I feel like I can't move forward till my name is changed. I also want to study further and want my next qualification to be in my new name.”

“Accessing these services would let me apply for jobs without being outed by my ID number. It would let me get an ID document that matches the way I look every day. It would force my medical aid to pay for services I need that are specific to my gender. It would give me legal standing as the woman that I am in the face of people who deny, mock or challenge my identity.”

“Yes, I want the changes done before I matriculate so that I can attend university under the correct name and gender marker.”

“I want to change ASAP so that I'm legally seen as female, particularly for medical aid purposes. I also want to change before I turn 16 in 2 months, so that I don't need to apply for an ID card twice.”

“Yes. We applied for my daughter's gender and name change on 25 June 2019. She will be 16 on 1 October at which point the two applications cannot be made at the same time. My concern is that we will have to start the whole process again, applying for her name change first and having to wait for that to come through before applying for her gender change. This could prolong the process by another year. She needs her ID in her new name and gender in order to register for matric in 2022. We started this process when she was 14 to ensure we would have it all completed in good time.”

“I would be able to live my life without the psychological abuse of being misgendered, deadnamed, and dehumanized even though I have lived as the woman I am for the past 5 years. I would be able to navigate the world in relative peace, apply for housing with proper documents, apply for credit or loans without the glaring error of my deadname and the incorrect gender marker. I feel f-cking stuck and there's nowhere to turn.”

“My life is a mess, currently I don't have a letter of confirmation from Home Affairs to amend my driver's license, bank details and all other relevant details because my previous ID is invalid.”

Conclusion

Though this report is a clear indictment of the services – or rather lack thereof – at the DHA, it must be noted that this is not an attack on the safety measures put in place by the South African government in order to mitigate the spread of coronavirus cases.

Home Affairs staff, like all who reside in this country, have a right to be kept safe during this time of crisis. However, transgender – and indeed all LGBTI+ individuals – have historically faced higher levels of violence, discrimination, poverty and social rejection than many other demographics. These are only compounded by the hardships brought on by a national lockdown. The right to safety for one group cannot come at the expense of the right to safety of another group.

The Department of Home Affairs has failed to cater to and protect transgender and gender-diverse South Africans, and failed to duly inform the public of the services it provides under the ever-changing lockdown regulations. The needs of this community have been deemed “non-essential” when in fact they are vital and urgent. It betrays a deeper, long-running misunderstanding of or disdain for transgender and gender-diverse persons within the DHA (as many who have tried accessing these services even prior to the global pandemic can anecdotally attest) and allowing this to continue is entirely unjustifiable.

However, this report does not have to be an indictment. There is an opportunity here to move forward together, government and civil society, to defend the human rights of all people in this country. The oversight can be rectified, should the DHA take the following steps with immediate effect:

- *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.*
- *Explicitly instruct DHA staff across the country 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 can ill-afford for this to continue when the community is more vulnerable and concerned than ever before.*
- *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.*
- *Remain open to engagement with civil-society on matters pertaining to transgender and gender-diverse people to ensure that their needs are appropriately met moving forward. It is important to note that there are a range of issues frequently raised by the community in regard to the DHA, and that the above is focused solely on service provisions denied during pandemic safety measures.*

END

Annex 1

FULL RESPONSES TO SURVEY ENTITLED 'IRANTI TRANSGENDER SURVEY: THE IMPACT OF COVID-19 ON HOME AFFAIRS SERVICES'									
How do you identify?	Are you a South African citizen?	Have you tried to access any of the following Home Affairs services under Lockdown?	Under which level(s) of Lockdown did you seek services?	Were you successful in your application?	If you answered "No" to the previous question, what reasons were given by Home Affairs officials?	At which Home Affairs office did you seek services?	Do you feel you have faced any of the following due to having documents not matching your identity?	Do you feel you would benefit from accessing forename and gender-marker change services during Lockdown? If so, how?	Do you feel Home Affairs takes the needs of trans persons seriously?
Trans woman	Yes	Amend gender-marker	3	No	That service is not available currently and there was no directive on whether it would be available again before Level 1.	Stellenbosch		I would like to be able to initiate the process as it is the last legal step I need to take and it does take time.	Unsure
Trans woman	Yes	Request Unabridged Birth Certificate	3	No	We can make the application if you have requested it before, but not if it is your first request. The person responsible isn't in the office during level 3. Try again in level 2 or maybe level 1.	Randburg	Discrimination by healthcare providers, Discrimination by current or potential employers	Accessing these services would let me apply for jobs without being outed by my ID number. It would let me get an ID document that matches the way I look every day. It would force my medical aid to pay for services I need that are specific to my gender. It would give me legal standing as the woman that I am in the face of people who deny, mock or challenge my identity.	No
Trans Man	Yes	Amend forename, Amend gender-marker, Apply for new documentation (e.g ID) under new legal identity, Aquire an ID	5, 4, 3	No	DHA unae to assist with new ID applications during lockdown.	Online service		Yes, I want the changes done before I matriculate so that I can attend university under the correct name and gender marker.	Unsure
Trans man	Yes	The confirmation letter	3	No	They said the amendment section will	Pretoria cbd	Not being able to update info	I'd be able to update my details after	Unsure

					start to operate at level 2		at work, school, sars and other departments.	getting the confirmation letter.	
Cisgender woman	Yes	Follow up on applications made prior to Lockdown (27 March 2020)	4, 3	No	Short staffed & unable to access the system	Wynberg		Yes. We applied for my daughter's gender and name change on 25 June 2019. She will be 16 on 1 October at which point the two applications can not be made at the same time. My concern is that we will have to start the whole process again, applying for her name change first and having to wait for that to come through before applying for her gender change. This could prolong the process by another year. She needs her ID in her new name and gender in order to register for matric in 2022. We started this process when she was 14 to ensure we would have it all completed in good time.	Unsure
Trans man	Yes	Amend forename, Amend gender-marker, Apply for new documentation (e.g ID) under new legal identity, Follow up on applications made prior to Lockdown (27 March 2020)	5, 4, 3	No	Lockdown	Cape Town	Verbal or psychological abuse, Discrimination by healthcare providers, Discrimination by current or potential employers, Discrimination by teachers or educational institutions	Yes, I can then get medical aid	No

Trans male	Yes	Amend forename	5, 4, 3	No	I submitted before lockdown in July 2019. They didn't finish before lockdown and will not look at it now.	Wynberg Cape Town	Verbal or psychological abuse, Discrimination by current or potential employers, Professional registration in incorrect name	Yes. I need to apply for a new job as Covid 19 has robbed me of employment. I cannot stop people from deadnaming me if I don't have official documentation. I feel like I can't move forward till my name is changed. I also want to study further and want my next qualification to be in my new name.	No
Trans woman	Yes	Amend forename, Amend gender-marker	3	No	They are closed due to lockdown. and only doing certain registrations. GMI is not included as an importance	Nigel	My challenge is that I need to get married and causes an issues of same sex which I do not identify as.	Yes. I am able to have a marriage officer do my wedding ceremony as a woman, and my dysphoria of being misgendered.	No
Trans man	Yes	Marriage	3	Yes		Kzn		Yes for those that need as it has impact on their livelihood	Unsure
Trans masculine	Yes	Amend gender-marker	4	No	Service not available as it's not essential	Wynberg	I can't change my driver's licence and will be stuck with 'female' for 5 years unless I pay again. This can put my safety at risk due to discrimination. Also, it means I must disclose my status to my new landlord.	Yes. As per reasons above. I just wanted to hand in documents! Maybe some sort of secure drop-off system?	No
Trans woman	Yes	Request Abridged Birth Certificate, Amend forename, Amend gender-marker, Apply for new documentation (e.g ID) under new legal identity,	4	No	"Come back after lockdown 😊"	Port Elizabeth, Central.	Verbal or psychological abuse, Physical violence, Discrimination by healthcare providers, Discrimination by current or potential employers, Discrimination	I would be able to live my life without the psychological abuse of being misgendered, deadnamed, and dehumanized even though I have lived as the woman I am for the	No

		Follow up on applications made prior to Lockdown (27 March 2020), Pick up amended documentation					n by teachers or educational institutions, The inability to seek gainful employment abroad.	past 5 years. I would be able to navigate the world in relative peace, apply for housing with proper documents, apply for credit or loans without the glaring error of my deadname and the incorrect gender marker. I feel f*cking stuck and there's nowhere to turn 😞	
Trans man	Yes	Apply for new documentation (e.g ID) under new legal identity	4, 3	No	That their amendment section was closed and the department was offering limited services.	Wynberg, Cape Town	Discrimination by current or potential employers	Yes. It would stop people thinking I'm committing fraud.	No
Cisgender parent	Yes	Amend forename, Amend gender-marker	4, 3	No	On the only occasion I was able to contact anyone, I was told those services were closed. I tired to make contact at least 8 times.	Randburg, Alexandra, Krugersdorp	Verbal or psychological abuse, Discrimination by teachers or educational institutions	I want to change asap so that I'm legally seen as female, particularly for medical aid purposes. I also want to change before I turn 16 in 2 months, so that I don't need to apply for an ID card twice.	No
Trans man	Yes	Amend forename	3	No	Come back after lock down	Randburg		Yes. Progress on my identity	No
Trans man	Yes	Follow up on applications made prior to Lockdown (27 March 2020)	5, 4, 3	No	Have not been able to contact them telephonically or via email to various senior persons/contacts via Matimba	Krugersdorp	Verbal or psychological abuse, Discrimination by teachers or educational institutions	Yes, it needs to be processed before I do matric next year	No
Transwoman	Yes	Apply for new documentation (e.g ID) under new legal identity	3	No	No new application at this time were being worked on until further notice	In Kimberley	Discrimination by current or potential employers	Yes alot will change people will start taking one serious and believe in what you preach and stand for	No
Transgender woman	Yes	Pick up amended	3	No	That I should come after lockdown	Pretoria Home Affairs,	Verbal or psychological abuse	My life is a mess, currently I	No

		documentatio n				Schubart Street		don't have a letter of confirmation from Home Affairs to amend my driver's license, bank details and all other relevant details because my previous ID is invalid.	
Trans woman	Yes	Amend gender- marker	3	No		Mmabatho	Verbal or psychological abuse	Yes	No
nonbinary/tra ns man	Yes	Follow up on applications made prior to Lockdown (27 March 2020)	5, 4, 3	No	They just haven't answered phone calls or emails no matter how many attempts we have made. I had applied for my gender marker to be changed and my name to be changed before lockdown and have tried to follow up	Krugersdor p	Verbal or psychological abuse, Physical violence, Discriminatio n by healthcare providers, Discriminatio n by teachers or educational institutions	Yes. I need them changed for matric and I'm in grade 11 now. I need a correct ID as well to show if asked for it	No

Annex 2

ATTEMPTS TO CONTACT DHA (TELEPHONIC)	
Location	Response
DHA Contact Centre	No response
DHA Headquarters	No response
Stellenbosch Home Affairs	No response
Wynberg Home Affairs	No response
Cape Town CBD Home Affairs	No response
Randburg Home Affairs	No response
Alexandra Home Affairs	No response
Krugersdorp Home Affairs	No response
Nigel Home Affairs	No response
Pretoria Main/Regional Office	No response
Port Elizabeth CBD	“We cannot update our services until informed by the Minister”. Not known when the Minister will make these pronouncements.
DHA Director General	“Please await the directions that will be published by the Minister next week”.

ATTEMPTS TO CONTACT DHA (EMAIL)		
Location	Email Address	Response
Minister of Home Affairs	Minister@dha.gov.za	No response
DHA Director General	jackie.mckay@dha.gov.za	No response
National Office	hacc@dha.gov.za	No response
Stellenbosch	nollie.smith@dha.gov.za	No response
Wynberg	nazeem.andrews@dha.gov.za	No response
Port Elizabeth CBD	Ncebakazi.Qalase@dha.gov.za	No response
Alexandra	thiru.moodali@dha.org.za	No response
Pretoria Main Office	Dumisani.ntamela@dha.org.za	No response