

## **Document 1 – FoI 202200313388**

### **Email chain**

Fri 31/12/2021 13:29

[Redacted]

The Cabinet Secretary has noted for his interests.

The Cabinet Secretary has asked that a check is done of the timescales for completion and that they are consistent with Ms Robison views on the work being undertaken with the GRA.

Thanks

[Redacted]

[Redacted] - Private Secretary to Cabinet Secretary for Justice & Veterans – Keith Brown  
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**From:** [\[Redacted\]@sps.pnn.gov.uk](mailto:[Redacted]@sps.pnn.gov.uk)>

**Sent:** 21 December 2021 15:00

**To:** Cabinet Secretary for Justice and Veterans [\[Redacted\]@gov.scot](mailto:[Redacted]@gov.scot)>

**Cc:** Minister for Community Safety [\[Redacted\]@gov.scot](mailto:[Redacted]@gov.scot)>; DG Education & Justice

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**Subject:** RE: SPS Transgender Policy Review

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[Redacted]

Apologies for resending – please use this circulation list going forward.

Many thanks

[Redacted]

OFFICIAL

**From:** [Redacted]

**Sent:** 21 December 2021 14:49

**To:** Cabinet Secretary for Justice [\[Redacted\]@scotland.gsi.gov.uk](mailto:[Redacted]@scotland.gsi.gov.uk)>

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**Subject:** SPSTransgender Policy Review

OFFICIAL

[Redacted]

With apologies for the delay, please find attached a 3 page submission and associated Annexes for Mr Brown's information regarding the above.

Kind regards

[Redacted]

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[Redacted]Head of Secretariat – Chief Executive's Office

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Helping to build a safer Scotland- Unlocking Potential - Transforming Lives

## SPS Values

Belief | Respect | Integrity | Openness | Courage | Humility

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## **Ministerial Submission**

From: Teresa Medhurst  
Interim Chief Executive, SPS  
21 December 2021

Cabinet Secretary for Justice

### **SPS GENDER IDENTITY AND GENDER REASSIGNMENT POLICY REVIEW**

#### **Purpose**

To provide you with information on the above SPS policy review.

#### **Priority**

Routine.

#### **SPS Gender Identity and Gender Reassignment Policy Review**

In late 2019, SPS made a commitment to review the Gender Identity and Gender Reassignment Policy (2014) in response to concerns raised, especially around potential implications for the safety and wellbeing of people in our care. This commitment was reiterated by the then Cabinet Secretary for Justice in February 2020 in response to a Parliamentary Question. Unfortunately, the review process was paused due to COVID19 pressures. Detailed preparatory work for the policy review recommenced earlier this year, with monitoring and oversight provided by a short life working group.

The purpose of the policy review is to develop an updated, evidence-based corporate position which clearly articulates the policy's intent and how this will be achieved, consistent with the obligations of SPS as a public body and as a prison service. Progress can be summarised as follows:

- We have reviewed the wording of the policy intent for the Gender Identity and Gender Reassignment Policy (2014)
- We have researched arrangements for managing transgender people in prison in other jurisdictions
- We have developed arrangements for improving data and Management Information (Mi) for transgender people in prison, consistent with recent guidance from the Chief Statistician and our obligations as a public body
- We have developed a framework which mainstreams an Equalities and Human Rights Impact Assessment (EHRIA), against which we will assess policy options for managing transgender people in prison and arrive at a preferred policy position
- We have developed an implementation framework to shape delivery of the preferred policy position
- We have undertaken an options appraisal of arrangements for engaging identified stakeholders, service users and staff in this policy review

- We have made initial contact with some identified stakeholders to confirm nominated leads for engagement in this review
- We have put a decision making log/tracker in place which provides rationale for decisions made throughout the review process

## **Engagement and consultation**

Now that initial evidence gathering and preparatory work is nearing completion, SPS is ready to move to the engagement stage of the review. While some internal engagement work had been completed in late 2019, this will be superseded by this next stage of the review, informed by lived experience and an up to date and diverse evidence base. The plan for the next stage is as follows:

- engagement with prisons staff who have experience of working with transgender people in Scotland's prisons, commencing December 2021
- a series of interviews with transgender men and transgender women in prison, commencing January 2022
- a survey of men and women living in custody across establishments in Scotland, commencing February 2022
- invitations extended to identified stakeholders for one to one discussions with SPS between February and May 2022, including a bespoke session with academia. This will include invitations to organisations representing communities of interest and identity (see list of stakeholders to be invited to contribute at **Annex A**)
- SPS to write to the Chairs of the Criminal Justice Committee and the Equalities, Human Rights and Civil Justice Committee to update them on the status of the policy review and advise that engagement on this work is commencing (**Annex B**).

## **Next steps**

Upon completion of this engagement process, it is our intention to undertake analysis of feedback and evidence in the course of early Summer 2022, with a view to providing you with an update thereafter.

We do recognise that this timeline is tight, contingent on the engagement and evidence gathering arrangements working well.

## **Conclusion**

You are invited to note the update on this policy review.

**Teresa Medhurst**  
**Interim Chief Executive, SPS**  
**21 December 2021**

Copy List:	For Action	For Comments	For Information		
			Portfolio Interest	Constit Interest	General Awareness
Cabinet Secretary for Social Justice, Housing and Local Government Minister for Community Safety			X X		
DGEJ SPS Executive Management Group Director of Justice, Scottish Government Catriona Dalrymple, Scottish Government [Redacted], Scottish Government [Redacted], Scottish Government [Redacted], Scottish Government [Redacted], Scottish Government [Redacted], SPAD Communications Justice [Redacted] [Redacted] [Redacted] [Redacted] [Redacted]					

## Annex A: List of stakeholders

<b>Engagement plan for SPS policy review</b>
<b>Third sector/ community organisations to be invited to engage</b>
<b>Amnesty International UK</b>
<b>Close the Gap</b> – Work with policymakers , employers and employees to influence and enable action to address the cause of women’s inequality at work
<b>Samaritans</b>
<b>Engender</b> – Scotland’s feminist membership organisation – Work to advance equality between men and women in Scotland, producing research, lobbying decision makers and empowering women to campaign for change
<b>Equate Scotland</b> – Make a positive difference for women in Science engineering, technology and the built environment and actively work to change cultures in organisations and academia,
<b>Families Outside</b> – Only national charity in Scotland that works solely to support families affected by imprisonment
<b>Fair Play For Women</b> – A campaigning and consultancy group which raises awareness, provides evidence and analysis, and works to protect the rights of women and girls in the UK.
<b>For Women Scotland</b> – Speak up on behalf of women’s rights seeking to challenge the ongoing push from gov’t funded lobby groups to overwrite sex-based rights in legislation and public policy with the undefined and unscientific gender identity
<b>Howard League Scotland</b> – Country’s leading independent penal reform organisation - Campaign for the Scottish Penal system to be just, progressive and humane and that prison becomes a measure of last resort
<b>LGB Alliance</b> – Advance the interests of lesbian, gay and bisexual right, and stand up for the right to live as same-sex attracted people without discrimination or disadvantage.
<b>LGBT Youth Scotland</b> – Scotland’s national charity for LGBTI young people, working with 13-25 year olds across the country
<b>LGBT Health and Wellbeing</b> – Works to improve the health, wellbeing and equality of lesbian, gay, bisexual and transgender people in Scotland.
<b>MurrayBlackburn</b>
<b>Mackenzie</b> – Independent policy analysis collective
<b>Prison Reform Trust (PRT)</b>
<b>Keep Prisons Single Sex</b> – UK campaign to keep all males out of women’s prisons.
<b>Criminal Justice Voluntary Sector Forum</b> – third sector infrastructure body for justice third sector
<b>Victim Support Scotland</b>
<b>Rape Crisis Scotland</b>
<b>Scottish Women’s Aid</b> – Lead organisation in Scotland working towards the prevention of domestic abuse.
<b>Stonewall Scotland</b> – Fight for the freedom, equity and potential of LGBTQ+ people everywhere.
<b>The Scottish Transgender Alliance</b> – Work to improve gender identity and gender reassignment equality rights and inclusion in Scotland.
<b>Women and Girls in Scotland</b> – Grassroots, feminist, women’s campaign group, including women, survivors of male violence and mothers. Formed to campaign for sex based rights of women and girls in Scotland

<b>Public bodies to be invited to engage</b>
<b>HMIPS</b>
<b>Justice Board/CJB</b>
<b>Risk Management Authority</b>
<b>Community Justice Scotland</b>
<b>Equality and Human Rights Commission</b> – Stand up for freedom, compassion and justice in changing times. Work is driven by a belief; if everyone gets a fair chance in life, we all thrive.
<b>National Gender Identity Clinical Network Scotland (NGICNS)</b> Information hub providing access to information about the National Managed Clinical Network, gender care and services for transgender service users
<b>Prison Healthcare Network</b>
<b>Social Work Scotland</b>
<b>COSLA</b>
<b>Academia</b>
<b>SCCJR</b>

**Annex B: letter to Chairs of the Equalities, Human Rights and Civil Justice Committee and the Criminal Justice Committee**

Dear Committee Chair,

**SPS Review of Gender Identity and Gender Reassignment Policy (2014)**

As you may be aware SPS is currently carrying out a review of its Gender Identity and Reassignment Policy which was developed in 2014.

The purpose of the policy review is to develop an updated, evidence-based corporate position which clearly articulates the policy's intent and how this will be achieved, consistent with the obligations of SPS as a public body and as a prison service.

I am writing to advise you that the preliminary work surrounding the policy review process is now nearing completion and SPS will shortly be moving on to the engagement phase of the review. This will involve:

- engagement with prisons staff who have experience of working with transgender people in Scotland's prisons, commencing December 2021
- a series of interviews with transgender men and transgender women in prison, commencing January 2022
- a survey of men and women living in custody across establishments in Scotland, commencing February 2022
- an invitation being extended to identified stakeholders for one to one discussions with SPS between February and May 2022. This will include invitations to organisations representing communities of interest and identity.

We will then undertake analysis of evidence before publication of the updated policy. Please note the policy development process and Equalities and Human Rights Impact Assessment (EHRIA) will be carried out simultaneously.

Please let me know if you would like any further information.

Teresa Medhurst  
Interim Chief Executive  
SPS