

FOI 202300342026- Information Released- Attachments to Annex

List of Attachments

1. Briefing relating to First Ministers Questions dated 02 Feb 2023
2. Letter from Convener of the Criminal Justice Committee
3. Letter from MSP Claire Baker relating to Transgender Prisoners
4. Briefing for Cabinet Secretary Meeting with Teresa Medhurst, Scottish Prison Service Chief Executive
5. Briefing for Cabinet Secretary Meeting with Maggie Chapman MSP dated 08 Feb 2023
6. Briefing relating to First Ministers Questions dated 09 Feb 2023
7. Briefing relating to First Ministers Questions dated 09 Feb 2023

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2. Letter from Convener of the Criminal Justice Committee



The Scottish Parliament
Pàrlamaid na h-Alba

Criminal Justice Committee

Keith Brown MSP
Cabinet Secretary for Justice and
Veterans
The Scottish Government

All correspondence c/o:
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The Scottish Parliament
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Tel: 0131 348 5195
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justicecommittee@parliament.scot

1 February 2023

Dear Cabinet Secretary

Management of transgender prisoners

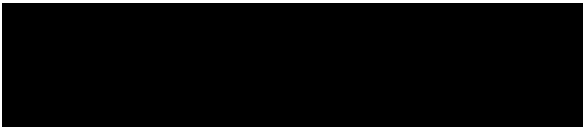
At its meeting today, the Committee discussed recent developments on the issue of transgender prisoners being held on the Scottish prison estate, including the lessons learned review by the Scottish Prison Service of the management of trans prisoners which will report by Friday 3 February.

We noted your intention to provide a written update to the Committee next week following the outcome of that review.

The Committee agreed to invite you to attend a committee meeting once that update is received in order to answer Members' questions. The Committee also agreed to invite Teresa Medhurst, Chief Executive of the Scottish Prison Service, to give evidence at the same meeting alongside you.

I would be grateful if your officials could liaise with the Committee Clerks regarding the arrangements for the meeting.

Best wishes,



Audrey Nicoll MSP
Convener, Criminal Justice Committee

3. Letter from MSP Claire Baker relating to Transgender Prisoners



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93 Main Street
Lochgelly
KY5 9AF
Tel: 01592 786726

claire.baker.msp@parliament

Keith Brown MSP
Cabinet Secretary for Justice
The Scottish Government

Dear Keith

I am writing to seek clarification in relation to the recent responses given to Parliamentary questions, by yourself and the First Minister, and the subsequent statement to Parliament on the Management of Transgender Individuals within Prison Custody.

In regard to the execution of Scottish Prison Service policy to date, can you advise whether the standard procedure of placement of prisoners ahead of risk-assessment would be for transgender individuals to be placed in the estate which matched their identified gender?

During the statement to Parliament on Tuesday 31 January, you confirmed that pending the completion of the two related reviews currently underway, no transgender person within the prison estate with a history of violence against women would be moved from the male to the female estate, and that would also apply to any newly convicted or remanded prisoner. Regarding the statement that this definition would encompass any history of violence against women including sexual offences, can you detail which offences this would include, and particularly whether it would apply to the offence of stalking?

I would also appreciate an explanation of how the Scottish Prison Service interprets the Equality Act. As you know, Section 29 of the 2010 Equality Act allows for single sex spaces which discriminate on the basis of sex and on the basis of gender reassignment, when it is legitimate and proportionate. Prisons are single sex institutions – those that are shared still segregate inmates on the basis of sex. I seek assurances that consideration is given to the lawful exercise of section 29 of the Equality Act in the current review of SPS policy.

What guidance applies to (i) court proceedings, and (ii) subsequent press reporting, in relation to pronouns used to refer to transgender individuals who are under trial? And how does this guidance take into account the impact on victims of offences, and other members of the public who may be affected by the way those individuals are described, including women affected by trauma or violence?

Yours sincerely



Claire Baker MSP (Scottish Labour)
Mid Scotland and Fife Region

4. Briefing for Cabinet Secretary Meeting with Teresa Medhurst, Scottish Prison Service Chief Executive

[redacted]

Cabinet Secretary for Justice and Veterans Meeting with Teresa Medhurst, Scottish Prison Service Chief Executive on Wednesday 8th February 2023, 16:00-16:45

Microsoft Teams meeting [redacted]

Routine meeting with SPS to engage on key priorities and operational issues.

Official support

[redacted] Prisons & Parole Unit

Agenda

The primary focus of this meeting will be SPS's urgent lessons learned review in relation to the case of [redacted] and looking ahead to the Criminal Justice Committee session that both yourself and Teresa will be attending on Wednesday 22nd February.

Main objective

To discuss current priorities for SPS and matters of operational importance.

ITEM 1

WELCOME AND INTRODUCTIONS

Issue/ background for awareness

[redacted as out of Scope]

Since your last meeting, there has been significant activity around the management of transgender prisoners following high profile cases.

AGENDA

No formal agenda has been agreed for this meeting, [redacted under Sec 30(b)]

[redacted as out of Scope]

[redacted as out of Scope]

Suggested question(s)/points of discussion

Open the discussion and invite discussion. In your opening remarks

You may wish to:

[redacted under Sec 30(b)]

ITEM 2

Transgender Prisoner: SPS Lessons Learned Review of Individual Case Issue/ background/for awareness

The review was reported to Chief Executive of SPS on Friday 3 January and Ms Medhurst is writing to you imminently outlining some key points and sharing the recommendations of the report.

You are writing to the Criminal Justice Committee later this week to update on the outcome of the review. At this stage – the final report has not as yet been received but it is anticipated that you will have this before the meeting - so helpful to discuss with Teresa her conclusions.

Suggested question(s)/points to raise

[redacted under sec 30(b)]

Contact point

[redacted]

5. Briefing for Cabinet Secretary Meeting with Maggie Chapman MSP dated 08 Feb 2023

Cabinet Secretary for Justice and Veterans Monthly Meeting with Maggie Chapman MSP

15:00 – 15:45 Wednesday 8 February 2023

MS Teams

Microsoft Teams meeting

[redacted]

Who

Maggie Chapman MSP, Green Party Spokesperson on Justice, Equalities & Human Rights

Why

The next meeting in a series of monthly engagement with Ms Chapman with the purpose of regular general discussion on Justice issues.

Comms Activity

N/A

Official support

Don McGillivray, Director of Safer Communities

Neil Rennick, Director of Justice

[redacted], Police Division

[redacted], Special Adviser

Agenda

1. Welcome

[redacted as Out of Scope]

4. Overview of the SPS Review into Trans Prisoners

5. A.O.B

Main Objective

To continue the positive engagement with the Scottish Green Party on a range of topics.

Annexes

Annex A – [redacted as Out of Scope]

Annex B- Extract from Parliamentary Statement On Management of Transgender Individuals in Prison Custody– 31 Jan

ITEM 1

[redacted as Out of Scope]

ITEM 2

[redacted as Out of Scope]

ITEM 3

[redacted as Out of Scope]

ITEM 4

Overview of the SPS Review into Trans Prisoners

Issue/ background

You offered to provide Ms Chapman with an overview of SPS lessons learned review into the case of an individual transgender prisoner when it becomes available. The review was reported to the Chief Executive of SPS, Teresa Medhurst, on Friday 3 January and SPS are due to report to you imminently.

You will update the Criminal Justice Committee on the outcome of the review later this week. You are due to meet with CE SPS Wednesday at 4PM and when you write to committee you will provide Ms Chapman with a copy of the letter at the same time.

Concern about increase Hate against Transgender People

During your statement to Parliament on 31 Jan, Maggie Chapman drew attention to unintended consequences of this issue- increase of hate crime/incidents against transgender people making them more vulnerable.(Section of transcript available at **Annex B**). She also highlighted that recent events should not make any prisoner feel less safe.

Key message(s)

Transgender people can be vulnerable and stigmatised and legitimate questions and debate should not fuel a discourse which is harmful to transgender people generally.

As with any group in society, a small number of trans people will offend – and where that relates to sexual offending, public concern is understandable.

SPS has concluded the urgent lessons learned review and I will updated the Criminal Justice Committee this week.

Until these reviews are complete all transfers of transgender prisoners with a history of violence against women have been paused. Therefore no transgender person already in custody with any history of violence against women (which includes sexual offences against woman) will be moved from the male to the female estate.

No newly convicted transgender prisoner with any history of violence against women will be placed in the female estate.

If it is felt that there are exceptional circumstances is a particular case, then the approval of Ministers will be required. Every decision about placement of transgender prisoners is subject to individual risk assessment – and as part of that, the safety of other women prisoners is paramount.

We are open to any ideas which could help to place this debate on a more respectful and calm footing, and reduce any risk of increased hate crime against trans people

Contact point

Neil Rennick, Director Of Justice

ITEM 4

[redacted as Out of Scope]

ITEM 5

[redacted as Out of Scope]

ANNEX A

[redacted as Out of Scope]

Annex B

Extract of Parliamentary Statement On Management of Transgender Individuals in Prison Custody– 31 Jan

Maggie Chapman (North East Scotland) (Green)

Share

I was struck by the line in the cabinet secretary's statement saying that

“We must not allow the legitimate questions that are being asked to fuel the view that trans women somehow pose an inherent threat to women, when that is not the case.”

The cabinet secretary will be aware of recent data that shows an increase in attacks against trans people. Does he agree that the weaponising of trans prisoners by certain individuals will serve only to make trans people more vulnerable? Can he comment on how we can ensure that no prisoners are made less safe because of recent events?

Keith Brown

Share

On the last point, I have tried to describe how we can try to keep prisoners safe. Of course, as Maggie Chapman will understand, there is, among staff in our prisons, a heightened sense that we should do that .

I agree—I have commented on it—about the position of trans women. As I have said, perhaps the best way to provide reassurance is to discuss matters in a calm way that takes into account and starts from the question of how we keep everybody safe. It is perfectly legitimate for people to question whether we are doing that effectively—I think that we are—but we can do that in a way that recognises that the primary concern of us all is the safety of all prisoners and staff. We can have a debate that should not give rise unnecessarily to what Maggie Chapman rightly drew attention to, which is the increasing number of hate crimes, or hate incidents, against trans people. There has been a very substantial increase, and we should always be mindful of that.

6. Briefing relating to First Ministers Questions dated 09 Feb 2023

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