

PE1876/II: Accurately record the sex of people charged or convicted of rape or attempted rape

Petitioners written submission, 5 November 2025

Background

In 2019 Police Scotland [developed](#) a 'gender self-declaration position statement' to prepare for Gender Recognition Act reform:

'The sex/gender identification of individuals who come into contact with the police will be based on how they present or how they self-declare, which is consistent with the values of the organisation.'

Police Scotland requires no evidence or certification as proof of biological sex or gender identity other than a person's self-declaration, unless it is pertinent to any investigation with which they are linked as a victim, witness or accused and it is evidentially critical that we legally require this proof, or there is reason for further enquiry based on risk...'

In April 2021 Police Scotland [confirmed](#) it allowed rape and attempted rape to be recorded based on self-declared gender identity:

'If the male who self-identifies as a woman were to attempt to or to penetrate the vagina, anus or mouth of a victim with their penis, Police Scotland would record this as attempted rape or rape and the male who self-identifies as a woman would be expected to be recorded as a female on relevant police systems.'

Why accuracy matters

Accurate data matters for research, public policy development, and understanding women's offending patterns.

Sex is a key determinant of offending. Males commit the vast majority of sexual offences. A small number of misclassified cases can skew data for the *female offending cohort*. We were surprised Police Scotland misunderstood this basic statistical point in a [submission](#) to the Committee.

There is no legislative requirement or operational need to allow men accused or charged with rape, or any other offence, to be recorded as female.

There is a strong moral imperative to record sex accurately. Criminal justice statistics paint an aggregate picture but are made up of incidents that reflect people's experiences.

What is Police Scotland's position?

This has changed over time (for a full timeline see [here](#)). Between November 2021 and March 2024 Police Scotland told the Committee it allowed for recording based on self-declaration:

*'There are specific circumstances where a woman may be recorded on police systems as having committed contraventions of Sections 1 and 18 of the Sexual Offences (Scotland) Act 2009 [including] **Where a person, born male and who identifies as a female (whether they have a GRC or not) and then commits rape (providing they have a penis) ...*** ([November 2021](#))

*'This recording practice is **applicable for all crimes and offences** and is not limited or exclusive to crimes of a sexual nature.'* ([November 2022](#))

*'a woman may be recorded as having committed rape in the following scenarios... **Where a person born male, obtains a full gender recognition certificate and then commits rape** (providing they have a penis) [or] **If the attending officer is satisfied the individual presents as a female** and subsequently records them as such on our crime systems which, if the offender is a first time offender and having a new record created on Crime History System (CHS), will be created as female...*' ([May 2023](#))

In [March 2024](#) Police Scotland submitted that the policy adheres to 'values of respect, integrity, fairness and human rights whilst promoting a strong sense of belonging'.

Police Scotland U-turn?

On [24 September 2024](#) DCC Speirs told the Criminal Justice Committee that any '*man who commits rape or serious sexual assaults will be recorded as a male*'. We understand this was not communicated to your Committee.

On [25 September](#) the Chief Constable told Sky News that suspected rape would always be investigated and recorded as male. She indicated this **would not** be the case in the example of shoplifting.

On [26 September](#) the Chief Constable told the SPA that rape is recorded based on biological sex.

On [24 February 2025](#) Police Scotland said it had '**not adopted any change in policy**' and still referred to the 2019 position statement. When asked about this by Sky News, Police Scotland indicated it had always recorded rape or serious sexual assault based on sex.

'We have been clear that a man who commits rape or serious sexual assaults will be recorded by us as a male. A male rapist cannot demand to be called a woman and further traumatise his victim... For context and guidance this doesn't contradict the 2019 policy which states there is no requirement for evidence or certification as proof of gender identity other than a person's self-declaration other than a person's self-declaration unless it is pertinent to any criminal investigation. Clearly, it would be pertinent in the case of a rape or sexual assault investigation.'

On [8 June 2025](#) The Herald reported 'widespread confusion and unease among [police] staff over how suspects who identify as transgender are recorded in official systems'.

Police Scotland review

In [May 2023](#) Police Scotland told the Committee it was reviewing its recording practices. On [26 September 2024](#) the Chief Constable announced that ACC Paton would lead on a fresh review of sex and gender.

In [June 2025](#) SPA Board members expressed disappointment about the lack of progress and “policy vacuum”. At the time of writing, the review remains incomplete.

Conclusion

Police Scotland’s position on recording is inconsistent and statistically incoherent.

Having repeatedly confirmed that it provides for self-declared gender identity, in September 2024, the Chief Constable made a U-turn that met the aim of our petition.

Five months later, Police Scotland said its policy had not changed and indicated it had *a/ways* recorded serious sexual offending based on biological sex. If true, it has misdirected the Committee and [wasted parliamentary time](#).

To our knowledge Police Scotland has not issued a directive to confirm the Chief Constable’s statement of September 2024.

The Chief Constable has further stated that sex or gender identity may be recorded differently *according to offence type*. This approach is confused and confusing. It renders data on female offending unreliable and limits comparability across offences. Given that some [accredited official statistics](#) are derived from Police Scotland data, we have drawn our concerns to the attention of the Office of Statistics Regulation.