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Justice Committee Clerks
FAO Audrey Nicoll MSP, Convener
Criminal Justice Committee
The Scottish Parliament
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24 March 2023

Dear Ms Nicoll

Criminal Justice Committee – Transgender Individuals- Follow Up Questions

Further to my appearance before the committee on 22 February 2023 on the above, I offered to provide the Committee responses in writing to the following questions:

Question 1 - Are SPS aware of:

- a. Transgender individuals in the estate with fresh charges of a violent and/or sexual nature? What approach will be taken to managing these individuals?**

All transgender individuals in our care continue to be subject to an individualised, robust risk assessment and proportionate supervision, relevant to their offending history. As I outlined to Members, we have put in place the policy announced by the Cabinet Secretary for Justice and Veterans on 29 January, that any transgender person in custody who has a history of violence against women – including sexual offences, would not be relocated from the male to female estate.

In addition, Scottish Prison Service (SPS) has put in place interim operational measures that allow for any newly convicted or remanded transgender individual, to initially be placed in an establishment commensurate with their birth gender. This currently applies to all transgender individuals, irrespective of their offence or alleged offence.

We have put in place mechanisms to allow for the reporting of key material changes to circumstances for any transgender individual in our care, which includes any new charges of violence and or sexual offence against women. Should any of these charges be identified, we will undertake a multi-disciplinary risk management review meeting to review the current location of the individual in question. If there are exceptional circumstances which support a

recommendation that a transgender individual with any history of violence against women be re-located to, or placed in, any part of the prison estate which does not match their birth gender, then Ministerial approval will be sought by SPS to do so on a case-by-case basis.

b. Any concerns raised by staff regarding searching transgender prisoners?

Some concerns have been raised by staff in relation to the searching of transgender prisoners. We are working in partnership with Prison Officers Association Scotland (POAS) and are actively considering the impact on both staff and those who live in our establishments. Any feedback received will be reviewed and considered as part of the ongoing Gender Identity and Gender Reassignment Policy review.

c. Any concerns raised regarding the safety of transgender men in the estate.

Our priority remains the safety and wellbeing of everyone who lives and works in our establishments. SPS is not aware of any current or obvious concerns regarding the safety of Transgender Men located within our estate. Robust processes are embedded into everyday operational practice to ensure the safety and wellbeing of all those who live and work in our establishments; these include but are not limited to, intelligence gathering and the application of the Prison Rules. Individuals also have the opportunity to raise concerns with personal officers, Independent Prison Monitors or through the Prison Complaints process.

Question 2 - Has a rapist ever been housed in the women's estate?

As you are aware, SPS does not comment on individual cases, however, I can advise that we are aware of only one instance of an individual charged under Sexual Offences (Scotland) Act 2009 - Section 1 (Rape) whereby they were housed in the female estate for a short period of time (out with mainstream circulation) before relocating to the male estate.

I hope you find the above information useful.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Teresa Medhurst', with a long horizontal line above it.

TERESA MEDHURST
Chief Executive