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Dear Mr FitzPatrick

EQUALITIES, HUMAN RIGHTS AND CIVIL JUSTICE COMMITTEE – GENDER RECOGNITION REFORM (SCOTLAND) BILL

Thank you for your recent correspondence received on 8 June 2022, where you seek further information on the above Bill, following the Committee Evidence Session on 7 June 2022.

If I may, I will address each of your questions in the order you have raised them.

1. *The number of people within the prison population who have requested a Gender Recognition Certificate*

SPS is not aware of anyone in our care who has requested a Gender Recognition Certificate (GRC). However as the Committee are aware, individuals are not obliged to advise SPS if they have requested a GRC or if they hold one.

2. *Whether it is possible to make a statutory declaration while in prison*

Individuals in our care can currently obtain statutory declarations for a variety of reasons whilst they are in custody including, declaration as to parentage by a father or a change of name.

Obtaining the necessary supporting evidence required to apply for a GRC whilst in custody is a matter for the individual in our care to take forward. However, SPS would facilitate visits to establishments by appropriate persons e.g. medical practitioners, psychologists, to enable the individual to have relevant reports completed to support them in making the statutory declaration.

Therefore, although to date it has not been tested/required, a prisoner could make a statutory declaration whilst in prison as part of the GRC process.

3. *If you are in possession and able to share information about how the system of self-identification operates in prisons in other jurisdictions ie internationally*

SPS is currently reviewing its Gender Identity and Gender Reassignment (2014) Policy. Part of the review is an analysis of evidence that has emerged since the policy came into being, including international experiences. This work is underway at present and SPS would be happy to share information on this matter with the Committee upon completion.

4. *What is the prison policy in relation to consensual sexual activity?*

While there is no specific policy, there is a presumption against those in custody engaging in sexual activity.

Paragraph (5) of Schedule 1 of the Prisons and Young Offenders Institutions (Scotland) Rules 2011) defines a breach of discipline as ‘commits any indecent or obscene act’. Therefore, if people in our care are found to be engaging in sexual activity, they should be placed on a disciplinary report. Where the people involved are sharing a cell then a new risk assessment should be considered under Paragraph (5) of Rule 28 (Accommodation of prisoners).

I hope this information is helpful.

Yours sincerely



JIM KERR
Deputy Chief Executive, SPS