Disclosure Scotland and safeguarding

A gender recognition certificate is not needed to change gender. People can change their name and gender on passport and driving licence for any reason via a simple and quick process of self-declaration.

These new documents can be submitted as proof of identity for a Disclosure Scotland check. This creates a safeguarding loophole that may be exploited by anyone who wishes:

- By presenting a new identity, the person can sever the link with existing records of offending held against previous names, which would otherwise be disclosed

We recommend:

- Mandatory use of National Insurance numbers for Disclosure Scotland checks and all identity changes
- Disclosure Scotland certificates display sex as registered at birth
- Disclosure Scotland certificates display all other names used for applicants, including those who change gender as part of changing identity

In order to be effective, the rules of safeguarding must apply equally to everyone.

Read more about our campaign at:

kpssinfo.org

KEEP PRISONS SINGLE SEX XX

Keep Prisons Single Sex was established in 2020

We believe that:

- Female offenders have a right to single-sex prisons
- Female detainees should only be searched by other females
- Data on offending must be recorded by sex
- No one should be able to conceal their identity during Disclosure Scotland checks

Email us:

admin@kpssinfo.org

Prisons

- Scottish Prison Service policy allows male prisoners who identify as transgender to be housed in women's prisons with female offenders.
- This includes those convicted of the most serious violent offences and those with functioning male genitalia.
- Prison officers tell us that this puts women in prison at risk. These women tell us that they are not safe.

Read more about our campaign at:

kpssinfo.org

Searching female detainees

The National Police Chiefs Council endorsed the draft policy Searching by Transgender Officers at the end of 2021. This permits an officer to strip search a detainee of the opposite sex, where that officer has a transgender identity.

The NPCC document suggests that a female detainee who does not consent to be searched by an officer of the male sex who identifies as transgender could have a non-crime hate incident recorded against her. Or she could be charged with a hate crime.

The Scottish Prison Rules (2011) provide that searching should take place according to gender, not sex, leaving women in prison vulnerable to being searched by an officer of the opposite sex.

In our view, subjecting detainees to opposite-sex searching violates their Article 3 rights not to be subjected to inhumane or degrading treatment.

We recommend that Schedules 3 and 9 of the Equality Act 2010 be applied by Police Scotland and the Scottish Prison Service in order that searching takes place only on a same-sex basis.

Recording data on offending

Sex registered at birth is fundamental to analysing offending and risk. These differences between males & females underpin policy and practice throughout the criminal justice system.

Yet Police Scotland record gender identity for all offences, including where the suspect has been charged with rape.

This matters because offending patterns differ significantly between males and females: males commit the large majority of offences and some offence categories are very rarely committed by females. Therefore allocating even 1 or 2 cases of male offending to the female subgroup on the basis of the suspect's gender identity may have a significant impact on that data.

The data recording decisions police forces make are key: data collected by police forces are transferred over onto other data management systems within the criminal justice system.

Accurate data on offending that is reliable & relevant to the development of services is a legitimate public interest.

Our recommendations reflect the protected characteristics in the Equality Act 2010: Police Scotland must record suspects' sex registered at birth with additional data collected on gender reassignment as a separate protected characteristic.

KEEP PRISONS SINGLE SEX XX

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