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Audrey Nicoll MSP  
Convener  
Criminal Justice Committee  
The Scottish Parliament  
Edinburgh  
EH99 1SP

31 January 2023

## TRANSGENDER PRISONERS

Dear Convener

I am writing to update the Committee on the reviews that the Scottish Prison Service (SPS) are undertaking in regard to transgender prisoners and to offer further engagement on related issues in due course.

It is the longstanding position of the Scottish Government and SPS that we do not comment on individual cases. I recognise that this can be challenging when there is substantial debate around any particular cases, but as a principle it is important to preserve this position. This is especially important when cases are subject to continuing court processes.

While I am mindful of the significant level of interest in issues relating to transgender prisoners, as the First Minister pointed out last week, we must not allow any suggestion to take root that trans women pose an inherent threat to women. Predatory men are the risk to women. However, as with any group in society, a small number of trans women will offend and be sent to prison.

Every decision about placement of transgender women in the prison is subject to individual risk assessment by Scottish Prison Service and as part of that, the safety of women prisoners is paramount as part of that process. I commend the professionalism of SPS in dealing with complex, high-profile and challenging individuals within their care.

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SPS's policy review of the management of trans prisoners is being undertaken in dialogue with the Scottish Government and other stakeholders; and will be independently assessed by experts in women affected by trauma and violence. The policy review will be concluded as soon as practicable, and is expected to be completed in the coming months. While it is important this is concluded soon, it is vital to ensure the policy is firmly noted in the legal framework and that there will be confidence in the approach taken for people in the care of SPS, the SPS workforce and more widely. The SPS Chief Executive will write to the Committee at the time of publication.

SPS are also now undertaking an urgent lessons learned review in relation to the case of Isla Bryson, with any learning to be applied immediately to existing transgender cases in the prison estate. This review will report to Ms Medhurst on Friday and Ms Medhurst will write to you to update on the outcome of this next week.

Until these reviews are complete 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 and no newly convicted or remanded 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 in a particular case, then the approval of Ministers will be required.

I will be providing a statement to Parliament on the afternoon of Tuesday 31 January about the actions described above.



**KEITH BROWN**

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