



## BRIEFING NOTES ON SEX SELF-IDENTIFICATION

### SCHOOLS GUIDANCE

- [Supporting transgender young people](#), produced by LGBT Youth Scotland, funded by Scottish Government and endorsed by Children's Commissioner
- Adopted by 17 out of 32 Scottish local authorities (NB: compliance with guidance regarded as a 'measure of success' by [City of Edinburgh Council](#))
- Guidance stipulates:
  - Teachers should withhold information from parents if child transitions at school but does not want parents to know
  - Children should be permitted to choose to use toilets, changing rooms and shared accommodation on school trips based on their gender identity not sex
  - Parents of other children would not be informed and if other children object, they would be asked to use different facilities
  - Children should be permitted to choose to compete in school sports competitions (intra- and inter-school) based on gender identity not sex
- No [local authority](#) that has adopted the guidance has subjected it to an EQIA

### TRANSGENDER PRISONER POLICY

- [Introduced](#) by Scottish Prison Service in 2014, co-written by Scottish Trans Alliance:
  - Allows prisoners to request being housed in accommodation in accordance with their self-identified sex
  - Can be searched by prison officers in accordance with their self-identified sex, e.g. female prison officers performing intimate rub down searches on male prisoners who identify as women
- [Number](#) of [high profile sex and violent offenders](#) have been housed in female estate
- [Equality and Human Rights Impact Assessment](#) (only made public via FOI in August 2018) revealed that SPS did not consider impact of policy on female prisoners or female prison officers
- SPS [indicating](#) they will be reviewing the policy

### NHS SCOTLAND PATIENT DATA

- [Late submission](#) on the Census Bill revealed that NHS Scotland has allowed patients to change the entry on 'sex' in their patient record based on self-identification (no need to be a GRC holder or to have undergone any medical or surgical interventions)
- Not clear how long the policy has been in place, nor what consultation or risk assessment took place prior to its introduction
- Numbers of people who have changed records ([from FOI](#))
- Given this is the case, it's unlikely any NHS Board can guarantee provision of single sex wards (see [recent PQ](#) lodged by Miles Briggs MSP)

## FUNDING OF VAWG ORGANISATIONS

- Applicants to the Scottish Government's Equally Safe Violence Against Women and Girls fund must be 'trans inclusive' (see [recent PQ](#) lodged by Kezia Dugdale MSP)
- This renders them incapable of applying the single sex exemptions permitted under the Equality Act 2010 (N.B. Stonewall and the Scottish Trans Alliance [lobbied](#) the UK Parliament to remove these exemptions)
- Many VAWG organisations are [concerned](#) about implications of sex self-ID but afraid to speak out publicly for fear of being labelled transphobic
- Fair Play For Women have produced a [report](#) that sets out the concerns held by victims of male sexual violence about proposed reforms to the GRA 2004

## STONEWALL MEMORANDUM OF UNDERSTANDING

- Ties signatories to endorsing a pro-affirmation approach to patients who present with gender dysphoria
- [Signed](#) by Cath Calderwood, Chief Medical Officer, on behalf of Scottish Government (October 2017)
- Signatories committed to reviewing MoU after one year – unclear whether this process is underway or not

## INTERACTION BETWEEN GRA 2004 AND EQUALITY ACT 2010

- There is increasing [concern](#) about the lack of clarity regarding the interaction between the GRA 2004 and the Equality Act 2004
- Edinburgh-based advocate Julius Komorowski believes that guidance produced by the Equality and Human Rights Commission is [unclear](#)
- Karon Monaghan QC, giving [evidence](#) to the Women and Equalities Committee in the UK Parliament, believes that providers of single sex services are unclear about their entitlement to exclude transwomen in some instances

## WHAT CAN MSPs DO?

- Create space in Parliament to debate the interaction between the GRA and EA
  - Cross party groups
  - Future's Forum
- Challenge policies adopted by organisations (particularly public sector organisations) that have adopted sex self-ID prior to the proposed law change
  - PQs
  - Subject committees
- Offer rigorous defence of free speech principles both inside and outside Parliament
- Challenge organisations that support sex self-ID to justify their rationale and evidence base

## USEFUL WEBSITES

[www.forwomen.scot](http://www.forwomen.scot)  
[www.womansplaceuk.org](http://www.womansplaceuk.org)  
[www.fairplayforwomen.com](http://www.fairplayforwomen.com)  
[www.transgendertrend.com](http://www.transgendertrend.com)

Prepared by forwomen.scot  
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