

Policy summary: SPS Policy for the Management of Transgender People (2023)

What the policy is:

- The policy is how SPS will admit transgender people to Scotland's prisons and ensure that they are placed and managed in a way which seeks to prevent transgender women with a history of Violence Against Women and Girls (VAWG), who present a risk of harm to those in the women's estate, from accessing that estate.
- The policy is rights-based and ensures the health, safety, and wellbeing of all people in prison.
- The policy articulates SPS's commitment to manage transgender people in accordance with its obligations as a prison service, as a public body, and as an Executive Agency of the Scottish Government.

What the policy does:

- The policy sets out the arrangements for how transgender people will be admitted to Scotland's prisons, how they will be placed, and how they will be managed.
- It puts policy and practice in place to prevent transgender women with a history of VAWG who present a risk of harm to those in the women's estate from accessing that estate.
- The policy articulates very strongly how SPS will consider and manage risks, protect rights, and meet the needs of people in prison.
- The policy 'individualises' the management of transgender people as far as is operationally practicable – through enabling SPS to admit people to prison based on the evidence and information available to SPS at that point in time – and then through an ongoing multi-disciplinary case conference, the first of which will be held, insofar as practicable, within 72 hours of arrival in custody.
- This approach enables SPS to adequately consider and manage the risk that someone may present to others, or to themselves, including VAWG risk, in a way that the other, 'blanket' approaches do not (blanket approaches relate to management based on someone's sex, someone's gender identity, or on someone's status as a transgender person).
- The policy protects the rights of transgender people in custody whilst also promoting the care, safety, and wellbeing of everyone across Scotland's prison estate, for example, by introducing the 72-hour timescale for initial case conferences. This may reduce the amount of time that someone may be required to spend in Separation and Reintegration Units (SRUs).
- It puts case management at the heart of the longer-term management of transgender people.
- The accompanying SSI will make it clear on the face of the Prison Rules that Governors have discretion to allow a transgender person to be searched by an officer of their birth sex if it is necessary and proportionate to do so.

Why the policy is needed:

A bespoke policy is needed for the management of transgender people because transgender people are the only group of people in custody where:

- A decision must be made about what gender of estate they are to be placed in.
- A decision must be made about what gender of prison officer should search them.

In addition, transgender people have specific support needs that other people do not, for example, access to equipment. It is also important to recognise that the transgender prison population is very small (0.3 per cent of the overall prison population).