

Dominic Raab
Minister for Justice

cc: Damian Hinds, Minister for Prisons

15 January 2023

Dear Mr Raab

I am writing concerning the Searching Policy Framework issued by the Prisons and Probation Service on 3rd October 2022, with an implementation date of 3rd January 2023.

The policy states:

- 4.10.22 “Where a full search is undertaken by prison staff, the following must be considered.... Staff undertaking the search must be the **same sex** as the visitor.”
- 4.10.28 “Staff undertaking the full search must be the **same sex** as the person being searched.”
- 4.17.3 “Female visitors must only be searched by staff of the **same sex**.”
- 4.17.4 “Male visitors may be searched by any trained member of staff but must only be full searched by a staff member of the **same sex**. See Annex A for transgender considerations. “
- 4.17.5 “Refusal by a male visitor to be routinely searched by a **woman** will not be grounds to refuse entry. Prisons should make available a **male member of staff** to undertake the search.”
- 4.17.11 “Trained members of **female staff** may search children of either sex with parental consent.”
- 4.17.12 “Trained members of **male staff** must only search children of the same sex with parental consent.”

Annex A: Transgender & non-binary searching considerations sets out how these rules should be applied when the people being searched has a transgender identity. However, it does not clarify the rules in relation to **staff members** who identify as transgender and in particular who hold a gender recognition certificate.

Sex Matters is a human-rights organisation campaigning for clarity about sex in law, policy and language | sex-matters.org | info@sex-matters.org

Directors: Michael Biggs, Rebecca Bull, Julia Casimo, Naomi Cunningham, Maya Forstater, Emma Hilton

Please can you clarify:

1. **How the policy defines “female staff” and “male staff”**, i.e. is this on the basis of biological sex, or on the basis of sex as modified by a gender recognition certificate?
2. If a biologically male member of staff has a gender recognition certificate stating sex as female, would this person be **recorded as male or female** for the purposes of searching other staff, visitors and prisoners?
3. If a transgender person born male in possession of a gender recognition certificate stating sex as female searches a female staff member, visitor or prisoner, would that be considered a search by someone of the **“same sex”**?

Thank you

A handwritten signature in black ink that reads "Maya Forstater". The signature is written in a cursive, flowing style.

Maya Forstater
Executive Director