

## **MBM meeting with Cabinet Secretary Shona Robison MSP – Friday 21 January 2022**

Present at the meeting: Kath Murray, Lucy Hunter Blackburn, Lisa Mackenzie, Shona Robison, four Scottish Government officials and one special adviser

- Shona Robison (SR) confirmed that a draft bill would be introduced in this parliamentary year and that it would remove the requirement for a diagnosis of gender dysphoria and reduce the period of time of ‘living in the acquired gender’ from 2 years to 6 months. SR also noted that “the WHO has recategorized gender dysphoria as not being a mental illness...but obviously the current legislation still treats it as such”.
- MBM asked if SR could confirm that the bill would be introduced on 24 February as reported by Holyrood magazine. SR replied saying this was “speculation”, but that she expected introduction to be “soon”.
- MBM asked if SR could confirm that the age at which someone could apply for a GRC would be reduced from 18 to 16 years old. SR would not confirm either way.
- MBM asked what assessment the Scottish Government had made of the judgment in the judicial review of the Ministry of Justice policy on transgender prisoners. SR replied saying that “the Scottish Government obviously looks at all judgments accordingly” and offered to respond to MBM in more detail about its considerations. MBM stressed that the case raised an issue relevant to GRA reform in general and was not being raised as a matter specific to prisons.
- MBM challenged SR on the SG position that GRA reform would not impact upon the practical operation of single sex spaces, citing several examples shared with us privately where women and girls had been confronted with males in women only spaces, in circumstances where this had caused them anxiety and distress. MBM asked SR whether she thought this was a matter of concern.
- SR responded saying that “it’s for those independent organisations” to decide on their policies and that the UK Government was planning to issue guidance\* on the operation of single sex spaces “that might be quite helpful”. (The Minister referred to this guidance five times during our half hour meeting.)
- MBM asked SR how likely she thought it was that existing policies based on self-ID principles would be rolled back if the SG reformed the GRA on the basis of self-ID and whether those policies were right. SR declined to offer a view on whether, in cases such as those raised with her, women should have a reasonable expectation of a female-only space. SR repeated her line that it was for organisations to make their own decisions and that the UK Government guidance would help, saying “we’re in contact with the UK Government to find out when that guidance will be published”.
- MBM asked SR whether the SG intended to publish its own guidance on single sex spaces, as promised in Shirley Anne Somerville’s statement to the Scottish Parliament on 20 June 2019. SR responded saying that “we can’t produce guidance that goes against the provisions within the Equality Act which is reserved”.
- MBM pressed SR to confirm that the SG had dropped its commitment to produce guidance. SR replied that it made sense to wait for the UK Government’s guidance.
- MBM asked what was meant by ‘living in an acquired gender’. SR replied saying that there is “no definition of acquired gender” but that the Gender Recognition Panel

said that individuals needed to show proof that they had changed their driving licence, passport or other official documents.

- MBM asked whether the SG was aware of the impacts of self-ID in the Republic of Ireland. SR responded saying “we are in contact with our counterparts in Ireland trying to get as much information as we can”.
- MBM asked how the SG intended to measure the impact of self-ID in Scotland, given that the SG Chief Statistician has now advised all Scottish public bodies to cease collecting data on sex as a matter of routine. SR replied saying “we’ll make sure we monitor the operation of the legislation and look at ways of what that looks like in terms of the production of information”.
- MBM asked whether that would lead to the SG reversing the guidance produced by the Chief Statistician. SR did not give a conclusive response.
- MBM asked what consideration the SG had given to potential abuse of the system and whether officials had spoken to those who work with sex offenders. SR replied saying that making a false statutory declaration could lead to up to two years in prison and that they were working with their officials in criminal justice. MBM asked that SG spoke to experts specialising in the management of sex offenders. SR confirmed she would do that.
- MBM closed asking that it be recorded that we did not think that Ministers had taken proper account of the concerns that had been raised via both consultations and that they did not understand the risks they were taking in proposing these reforms.
- SR replied saying she would write back to us on some of the specific issues we had raised.

\*it later emerged, via a meeting with Woman’s Place UK which took place on 24 January, that the guidance the Cabinet Secretary was referring to was guidance from the Equality and Human Rights Commission, which has not yet been published