

This template summarises the key decisions/actions taken in the EHRIA, and has been separated from the full EHRIA document for publication on the SPS external website in compliance with statutory requirements.

Background	
Title of the Policy	Detention of a visitor under Section 41(3) of the Prisons Scotland Act 1989
EHRIA Lead Person	Senior Operational Advisor – Scottish Prison Service HQ
Date EHRIA completed	26 February 2015
Review date and frequency	Any change in legislation
Is this a new or revised policy/practice?	New <input checked="" type="checkbox"/> Revised <input type="checkbox"/>

Scoping	
What are the aims of this policy/practice?	<p>To ensure compliance with Prison (Scotland) Act 1989 when a visitor to a prison is required to be detained where there is reasonable grounds for suspecting that any person has committed or is committing an offence under subsection 41(1) of the Prison (Scotland) Act 1989.</p> <p>To provide a standardised process, guidance, official paperwork and recording of information, so officers and Managers when managing the detention of a visitor have the relevant information that is compatible to the standards in the Prison (Scotland) Act 1989</p>
WHO did you consult with?	SPS legal Policy Branch SPS Equality and Diversity HQ team SPS Equality and Diversity Managers SPS Head of Health and Well Being SPS Families and Young Person Manager SPS Head of Public Protection and Families Outside.
WHAT did you learn?	To provide a holistic, inclusive and legal approach to guidance provided to Officers and Managers in Scottish Prisons who are required to be detain visitors if there is reasonable grounds that any person has committed or is committing an offence in a Scottish Prison.

## Scoping

<p>HOW will this shape your policy/practice?</p>	<p>The information gained through consultation and evidence gathering has provided the foundation to provide a fair and informative process in managing visitors who are required to be detained when there are reasonable grounds for suspecting that any person has committed or is committing an offence in a Scottish Prison.</p> <p>Information provided by the SPS for visitors who are detained will be provided in the agreed most common used languages for people who first language is not English. Access to a translator will be provided for people who language is not included in the common most used languages. Information for visitors who understanding of English is limited will be provided by Establishment Security First Line Manager.</p> <p>A separate recording format for children under sixteen will be included in the guidance.</p> <p>The use of reasonable force will be explained in the guidance.</p>
<p>What quantitative and/or qualitative evidence as well as case law relating to equality and human rights have you considered when deciding to develop new or revise current policy/practice?</p>	<p>Prison (Scotland) Act 1989          SPS Prison Rules 2011          The Children and Young People (Scotland) Act 2014          Adult, Support and Protection (Scotland) Act 2007          SPS Gender Identity and Gender Reassignment Protocol          Quantitative evidence is not available (see outline plan of actions)</p>

## Impact

Will the impact and outcomes of the new/revised policy/practice:

<p><b>Contribute to eliminating discrimination, harassment and victimisation?</b></p> <p>E.g.</p> <ul style="list-style-type: none"> <li>• Raise awareness of our SPS vision and values for equality and diversity</li> <li>• Challenge appropriately any behaviours or procedures which do not value diversity and advance equality of opportunity</li> </ul>	<p><b>POSITIVE:</b>          It will contribute to eliminating discrimination, harassment, victimisation <input checked="" type="checkbox"/></p> <p><b>NO EFFECT:</b>          It will have no effect on discrimination, harassment and victimisation <input type="checkbox"/></p> <p><b>NEGATIVE:</b>          It will make discrimination, harassment and victimisation worse <input type="checkbox"/></p>
<p><b>Advance equality of opportunity between those who share a protected characteristic and those who do not?</b></p>	<p><b>POSITIVE:</b>          It will advance equality of opportunity <input checked="" type="checkbox"/></p> <p><b>NO EFFECT:</b></p>

<b>Impact</b> Will the impact and outcomes of the new/revised policy/practice:	
E.g. <ul style="list-style-type: none"> <li>Remove or minimise disadvantage</li> <li>Meet the needs of equality groups that are different from the needs of others participation in public life</li> </ul>	It will have no effect on equality of opportunity <input type="checkbox"/>
	<b>NEGATIVE:</b> It will reduce equality of opportunity <input type="checkbox"/>
<b>Foster good relations between those who share a protected characteristic and those who do not?</b> E.g. <ul style="list-style-type: none"> <li>Tackle prejudice</li> <li>Promote understanding</li> </ul>	<b>POSITIVE:</b> It will foster good relations <input checked="" type="checkbox"/>
	<b>NO EFFECT:</b> It will have no effect on good relations <input type="checkbox"/>
	<b>NEGATIVE:</b> It will cause good relations to deteriorate <input type="checkbox"/>
<b>Ensure Human Rights Compliance?</b>	It will uphold human rights articles. <input checked="" type="checkbox"/>
	It will breach human rights articles. <input type="checkbox"/>

**Please summarise the results of the Equality & Human Rights Impact Assessment, including the likely impact of the proposed policy/practice advancing equality and human rights.**

<b>Positive Impacts</b>
<p>It will provided a fair process for staff and managers to follow when detaining a visitor in a prison when there are reasonable grounds for suspecting that any person has committed or is committing an offence in a Scottish Prison.</p> <p>The information explain the reason for the detaining a visitor will be provided in languages the person understands or a translator will be provided</p> <p>Information explaining the reasons for detaining a visitors who has no or limited English will be provided by the Establishment Security First Line Manager</p> <p>The detaining of Transgender person or a person with a disability will be managed in accordance with SPS protocols and guidance.</p>

<b>Negative Impacts</b> Protected characteristics affected:	
<b>Impact</b>	<b>Mitigation</b>
There is no way for the SPS to identify if the visitor has been forced or does not understand has committed or is committing an offence in a Scottish Prison.	This will be explained in the information provided by the SPS and investigated by the Police.

## Recommended course of action

<b>Outcome 1:</b> Proceed – no potential for unlawful discrimination or adverse impact or breach of human rights articles has been identified.	<input checked="" type="checkbox"/>
<b>Outcome 2:</b> Proceed with adjustments to remove barriers identified for discrimination, advancement of equality of opportunity and fostering good relations or breach of human rights articles.	<input type="checkbox"/>
<b>Outcome 3:</b> Continue despite having identified some potential for adverse impact or missed opportunity to advance equality and human rights (justification to be clearly set out).	<input type="checkbox"/>
<b>Outcome 4:</b> Stop and rethink as actual or potential unlawful discrimination or breach of human rights articles has been identified.	<input type="checkbox"/>

## Summary of Outcome decision and Recommendations

It will provide a fair process for staff and managers to follow when detaining a visitor in a prison when there are reasonable grounds for suspecting that any person has committed or is committing an offence in a Scottish Prison.

The information explaining the reason for the detaining a visitor will be provided in languages the person understands or a translator will be provided.

Information explaining the reasons for detaining a visitors who has no or limited English will be provided BY Establishment Security First Line Manager

The detaining of Transgender visitor or a visitor with a disability will be managed in accordance with SPS protocols and guidance.

## Next steps

Monitor all detention of visitors for, length of time detained, use of force and official complaint.

Develop and provide information being provided to visitors by the Scottish Prison Service for reason for the detention in commonly used languages and easy read.

If you require this document in an alternative format, please contact [SPSEqualityandDiversityTeam@sps.pnn.gov.uk](mailto:SPSEqualityandDiversityTeam@sps.pnn.gov.uk)