

From: [HOLDAWAY, Heather](#)
To: [Frost, Kerryn](#); [WOOD, Jesse \(WELLHO\)](#)
Cc: [HORAN, Marian \(WELLHO\)](#); [Wheeler, Sally](#); [SMITH, Amy](#); [VAN PEER, Tanja](#); [PIECK, Karin \(Karin Pieck\)](#)
Subject: RE: [EXTERNAL] RE: Heads-up: LEG paper and SOP for your review tomorrow
Date: Friday, 9 July 2021 4:32:00 PM
Attachments: [image001.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)
[image008.jpg](#)
[image009.png](#)
[image010.jpg](#)
[image011.jpg](#)
[image012.jpg](#)
[image013.jpg](#)
[image014.png](#)
[image015.png](#)

Kia ora Jesse

Thanks for the question. I've spoken to operational staff in the district custody unit and our National Forensic Staff.

Based on the advice received, the changes proposed are not anticipated to affect how Police determine someone's sex or gender when segregating people at custody: **s.9(2)(g) OIA**

the sex marker attributed to a person in the NIA is entered when someone is apprehended by police and identifying particulars taken, drivers licence etc may be used to verify this information.

Best practice would dictate that when someone is in police custody and identifying particulars are being taken, they are asked how they identify and that would be the starting base for the sex / gender information captured in NIA.

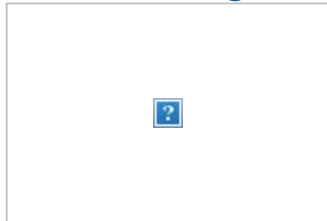
Cheers

Heather

Heather Holdaway
Assistant Policy Advisor (she/her)
Criminal Justice Policy

s.9(2)(a) OIA

E: xxxxxxx.xxxxxxxx@xxxxxx.xxxx.xx



From: Frost, Kerryn

Sent: Friday, 9 July 2021 2:30 pm

To: WOOD, Jesse (WELLHO) ; HOLDAWAY, Heather

Cc: HORAN, Marian (WELLHO) ; Wheeler, Sally

Subject: [EXTERNAL] RE: Heads-up: LEG paper and SOP for your review tomorrow

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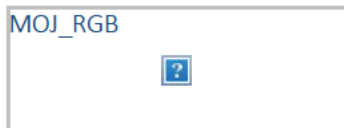
Kia ora Jesse,

Thanks for your email. I've checked in with our relevant policy teams and with our Operations & Service Delivery Group about the issue you raise below.

Our OSD Group has advised that the Court is not directly involved in placement of people in court cells (in terms of which cells they are placed in). This is determined by Corrections if they are people on remand in custody or Police if arrested and detained in cells or going into the cells to await signing of bail bonds.

Based on that advice, it doesn't look like it will have an impact from our end.

Ngā mihi,
Kerryn



Kerryn Frost (she/her)

Senior Advisor | Access to Justice
Courts and Justice Services | Policy Group
Ministry of Justice | Tāhū o te Ture

s.9(2)(a) OIA

www.justice.govt.nz

From: WOOD, Jesse (WELLHO) <Jesse.Wood@corrections.govt.nz>
Sent: Thursday, 8 July 2021 9:51 am
To: Frost, Kerryn <Kerryn.Frost@justice.govt.nz>; HOLDAWAY, Heather <Heather.Holdaway@police.govt.nz>
Cc: HORAN, Marian (WELLHO) <Marian.Horan@corrections.govt.nz>
Subject: RE: Heads-up: LEG paper and SOP for your review tomorrow
Kia ora both
I was wondering if you had some initial thoughts on this below question.

Is it known if the self-identification proposals impact how police/justice determine sex/gender for people being taken into custody / facing court cases? This is because any impacts here may subsequently impact Corrections as we often rely on their determinations of gender/sex to inform our initial prison placement.
Ngā mihi

Jesse Wood (he/him)

Policy Adviser | Corrections Policy

Ara Poutama Aotearoa, *Department of Corrections*

Wāhi mahi: National Office, Freyberg Building, 20 Aitken Street, Wellington 6011

Īmēra: Jesse.Wood@corrections.govt.nz



From: Frances Muir <Frances.Muir@dia.govt.nz>

Sent: 08 July 2021 9:27 a.m.

To: WOOD, Jesse (WELLHO) <Jesse.Wood@corrections.govt.nz>
Cc: Kate Raggett <Kate.Raggett@dia.govt.nz>; Michael Kane <Michael.Kane@dia.govt.nz>; Frost, Kerryn <Kerryn.Frost@justice.govt.nz>; HOLDAWAY, Heather <Heather.Holdaway@police.govt.nz>
Subject: RE: Heads-up: LEG paper and SOP for your review tomorrow
Kia ora Jesse

Thanks for your feedback. The LEG paper and SOP will be going up to our Minister today for ministerial consultation next week.

I have responded to some of your comments below – happy to discuss any more fully if you need.

Ngā mihi

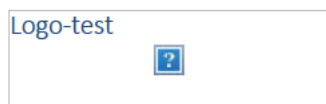
Frances

Frances Muir (she/her) | Senior Policy Analyst | Kaitātari Kaupapahere Matua

Policy Group | Rōpū Kaupapahere

The Department of Internal Affairs | Te Tari Taiwhenua

Mobile: s.9(2)(a)



From: WOOD, Jesse (WELLHO) <Jesse.Wood@corrections.govt.nz>
Sent: Friday, 2 July 2021 11:03 AM
To: Michael Kane <Michael.Kane@dia.govt.nz>
Cc: Frances Muir <Frances.Muir@dia.govt.nz>; Kate Raggett <Kate.Raggett@dia.govt.nz>; Susan Arcus <Susan.Arcus@dia.govt.nz>; Anne O'Driscoll ; HORAN, Marian (WELLHO) <Marian.Horan@corrections.govt.nz>
Subject: RE: Heads-up: LEG paper and SOP for your review tomorrow

Kia ora

Thank you for giving us an opportunity to feedback on this SOP.

We have several comments below.

- One point of interest, and this may be a question for police / justice. Will the self-identification proposals impact how they determine sex/gender for people being taken into custody / facing court cases? This is because any impacts here may subsequently impact Corrections as we often rely on their determinations of gender/sex to inform our initial prison placement. If you could put us directly in contact with the policy people from police/justice we are happy to discuss this with them.

Self-identification for birth certificates should not impact how other agencies, including police and justice determine the sex and gender of people. The policy intent is to amend sex on the birth register/birth certificates not how other agencies determine and record sex or gender. We understand from Police that birth certificates are not how they determine gender for offences. I have copied in Heather and Kerryn our Police and Justice contacts in case you would like more information.

- In paragraph 10 you could potentially add a sentence acknowledging the confusion with the word sex on birth certificates now that it sometimes means gender as well as sex. *Thanks.*
- This might be in the RIS. But if sex markers on birth certificates are expanded has it been explored how this will interact with databases and info collection from agencies, businesses etc.

We do not believe other agencies and organisations systems need to be updated to reflect the range of markers available on birth certificates. As above, the policy intent is not to change how other agencies or organisations determine a person's sex or gender. As set out in new section 80(2) individuals and agencies can take into account other matters. We will work with other agencies that may rely more on birth certificates as part of implementation eg, education and NZTA.

- Is it known what the impacts are of differing sex markers when doing international paperwork, e.g. citizenships, visas, etc?

If I understand correctly, your question is about New Zealanders applying for visas and citizenship applications overseas? We haven't looked into this specifically due to our time constraints, but do not foresee it as being a problem. In some case people may need to provide birth certificates when applying but we are not aware of any requirements for the gender/sex information on the birth certificate to align with marker options in other countries paperwork. If this became an issue, we look at issuing guidance as we currently do for traveling on passports with a "X" marker.

- We note some concern about the lack of consultation being undergone on changes, but acknowledge that consultation will be undergone further at select committee. *Thanks.*
- In paragraph 28, you might want to make it clearer that people born overseas cannot obtain a family court declaration. It is not clear currently. *Thanks.*

Happy to discuss any of these points through this further.

Ngā mihi

Jesse Wood (he/him)

Policy Adviser | Corrections Policy

Ara Poutama Aotearoa, *Department of Corrections*

Wāhi mahi: National Office, Freyberg Building, 20 Aitken Street, Wellington 6011

Īmēra: xxxxx.xxxx@xxxxxxxxxxxx.xxxx.xx

From: Michael Kane <xxxxxxxx.xxxx@xxx.xxxx.xx>



Sent: 18 June 2021 3:07 p.m.

s.9
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 OI
 A

[Redacted text block]

Subject: RE: Heads-up: LEG paper and SOP for your review tomorrow

Tēnā koutou

Further to my email yesterday, please find attached the Supplementary Order Paper amending the self-identification provisions in the Births, Deaths, Marriages, and Relationships Registration Bill along with the associated LEG paper. We would appreciate if you could provide feedback on these papers by **COP**

Thursday, 1 July. I have also attached the previous Cabinet paper for your reference.

The SOP document is very long as it includes the whole Bill with track-changes for the amendments. The key pages in the SOP are 12-13, 21-30, 52-54, 89-91. Please note that the SOP is a work in progress draft and subject to peer review and proof reading. There is some placeholder provisions and one drafting query that you are welcome to comment on.

Thank you again for your support in this work. Feel free to get in touch with any questions.

Ngā mihi

From: Michael Kane

Sent: Thursday, 17 June 2021 12:35 PM

s.9
 (2)
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[Redacted text block]

s.9(2)(a) OIA

Subject: Heads-up: LEG paper and SOP for your review tomorrow

Tēnā koutou

Cabinet has given policy approvals for introducing a self-identification process in the Births, Deaths, Marriages and Relationships Registration Bill. This included amendments to the provisions recommended by Select Committee, which will be made via an SOP. The Minister intends to invite the Governance and Administration Committee to undertake an inquiry on the SOP for three months – giving time for public submissions.

Heads-up: Supplementary Order Paper and Leg paper for agency feedback

We intend to send the legislation paper and SOP to you this **tomorrow** for feedback. We would appreciate getting any comments by **COP Thursday 1 July**.

Next steps

Following Agency consultation, the paper will be circulated to Ministers on 12 July, with feedback due on 23 July. The aim is to go to Leg Committee on 5 August and to Cabinet on 9 August.

Ngā mihi

Michael

Michael Kane (he/him) | Kaitātari Kaupapahere | Policy Analyst

Rōpū Kaupapahere | Policy Group

The Department of Internal Affairs Te Tari Taiwhenua

s.9(2)(a) OIA

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Thank you.

HOLDAWAY, Heather

From: VAN PEER, Tanja
Sent: Friday, 9 July 2021 4:06 pm
To: HOLDAWAY, Heather
Subject: RE: Sex markers used to determine sex / gender in NIA: BDMRR

Hi Heather,

As I understand it, your answer is correct however I would also add that Best Practice would dictate that when someone is in police custody and identifying particulars are being taken, they are asked how they identify and that would be the starting base for the information captured in NIA.

Thanks for putting this together Heather

Regards
Tanja

From: HOLDAWAY, Heather
Sent: Friday, 9 July 2021 3:26 PM
To: PIECK, Karin (Karin Pieck) ; WEBB, Michael (Mike) ; VAN PEER, Tanja
Cc: SMITH, Amy ; JOHNSON, Mark
Subject: Sex markers used to determine sex / gender in NIA: BDMRR
Importance: High

Kia ora Karin, Tanja and Mike
Please see Correction's question below, and proposed answer below.
Wanting to double check my understanding is correct before this goes out
Cheers
Heather

Kia ora Jesse

Thanks for the question. I've spoken to operational staff in the district custody unit and referred to previous advice provided by police prosecution services in relation to Police use of birth certificates in determining someone's sex/gender.

The changes proposed are not anticipated to affect how Police determine someone's sex or gender when segregating people at custody.

s.9(2)(g) OIA

the sex marker attributed to a person in the NIA is entered when someone is apprehended by police and identifying particulars taken, drivers licence etc may be used to verify this information. Birth certificates are not generally used by Police to determine someone's sex or gender when entering this NIA information.

Cheers
Heather

Heather Holdaway
Assistant Policy Advisor (she/her)
Criminal Justice Policy

s.9(2)(a) OIA

E: Heather.Holdaway@police.govt.nz



E tū ki te kai o te waka,
kia pakia koe e ngā ngaru o te wā



From: Frost, Kerryn <Kerryn.Frost@justice.govt.nz>
Sent: Friday, 9 July 2021 2:30 pm
To: WOOD, Jesse (WELLHO) <Jesse.Wood@corrections.govt.nz>; HOLDAWAY, Heather <Heather.Holdaway@police.govt.nz>
Cc: HORAN, Marian (WELLHO) <Marian.Horan@corrections.govt.nz>; Wheeler, Sally <Sally.Wheeler@justice.govt.nz>
Subject: [EXTERNAL] RE: Heads-up: LEG paper and SOP for your review tomorrow

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Kia ora Jesse,

Thanks for your email. I've checked in with our relevant policy teams and with our Operations & Service Delivery Group about the issue you raise below.

Our OSD Group has advised that the Court is not directly involved in placement of people in court cells (in terms of which cells they are placed in). This is determined by Corrections if they are people on remand in custody or Police if arrested and detained in cells or going into the cells to await signing of bail bonds. Based on that advice, it doesn't look like it will have an impact from our end.

Ngā mihi,
Kerryn



Kerryn Frost (she/her)
Senior Advisor | Access to Justice
Courts and Justice Services | Policy Group
Ministry of Justice | Tāhū o te Ture
s.9(2)(a) OIA
www.justice.govt.nz

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Sent: Thursday, 8 July 2021 9:51 am
To: Frost, Kerryn <Kerryn.Frost@justice.govt.nz>; HOLDAWAY, Heather <Heather.Holdaway@police.govt.nz>
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Ngā mihi

Jesse Wood (he/him)

Policy Adviser | Corrections Policy

Ara Poutama Aotearoa, *Department of Corrections*

Wāhi mahi: National Office, Freyberg Building, 20 Aitken Street, Wellington 6011

Īmēra: Jesse.Wood@corrections.govt.nz



ARA POUTAMA AOTEAROA
DEPARTMENT OF CORRECTIONS



From: Frances Muir <Frances.Muir@dia.govt.nz>

Sent: 08 July 2021 9:27 a.m.

To: WOOD, Jesse (WELLHO) <Jesse.Wood@corrections.govt.nz>

Cc: Kate Raggett <Kate.Raggett@dia.govt.nz>; Michael Kane <Michael.Kane@dia.govt.nz>; Frost, Kerryn <Kerryn.Frost@justice.govt.nz>; HOLDAWAY, Heather <Heather.Holdaway@police.govt.nz>

Subject: RE: Heads-up: LEG paper and SOP for your review tomorrow

Kia ora Jesse

Thanks for your feedback. The LEG paper and SOP will be going up to our Minister today for ministerial consultation next week.

I have responded to some of your comments below – happy to discuss any more fully if you need.

Ngā mihi

Frances

Frances Muir (she/her) | Senior Policy Analyst | Kaitātari Kaupapahere Matua

Policy Group | Rōpū Kaupapahere

The Department of Internal Affairs | Te Tari Taiwhenua

s.9(2)(a) OIA



Te Tari Taiwhenua
Internal Affairs

From: WOOD, Jesse (WELLHO) <Jesse.Wood@corrections.govt.nz>

Sent: Friday, 2 July 2021 11:03 AM

To: Michael Kane <Michael.Kane@dia.govt.nz>

Cc: Frances Muir <Frances.Muir@dia.govt.nz>; Kate Raggett <Kate.Raggett@dia.govt.nz>; Susan Arcus <Susan.Arcus@dia.govt.nz>; Anne O'Driscoll; HORAN, Marian (WELLHO) <Marian.Horan@corrections.govt.nz>

Subject: RE: Heads-up: LEG paper and SOP for your review tomorrow

Kia ora

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We have several comments below.

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- We note some concern about the lack of consultation being undergone on changes, but acknowledge that consultation will be undergone further at select committee. Thanks.
- In paragraph 28, you might want to make it clearer that people born overseas cannot obtain a family court declaration. It is not clear currently. Thanks.

Happy to discuss any of these points through this further.

Ngā mihi

Jesse Wood (he/him)

Policy Adviser | Corrections Policy

Ara Poutama Aotearoa, *Department of Corrections*

Wāhi mahi: National Office, Freyberg Building, 20 Aitken Street, Wellington 6011

Īmēra: Jesse.Wood@corrections.govt.nz



From: Michael Kane <Michael.Kane@dia.govt.nz>

Sent: 18 June 2021 3:07 p.m.

s.9(2)(a) OIA



Subject: RE: Heads-up: LEG paper and SOP for your review tomorrow

Tēnā koutou

Further to my email yesterday, please find attached the Supplementary Order Paper amending the self-identification provisions in the Births, Deaths, Marriages, and Relationships Registration Bill along with the associated LEG paper. We would appreciate if you could provide feedback on these papers by **COP Thursday, 1 July**. I have also attached the previous Cabinet paper for your reference.

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Thank you again for your support in this work. Feel free to get in touch with any questions.

Ngā mihi

From: Michael Kane

Sent: Thursday, 17 June 2021 12:35 PM

s.9(2)(a) OIA



Subject: Heads-up: LEG paper and SOP for your review tomorrow

Tēnā koutou

Cabinet has given policy approvals for introducing a self-identification process in the Births, Deaths, Marriages and Relationships Registration Bill. This included amendments to the provisions recommended by Select Committee, which will be made via an SOP. The Minister intends to invite the Governance and Administration Committee to undertake an inquiry on the SOP for three months – giving time for public submissions.

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Next steps

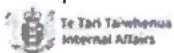
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Ngā mihi
Michael

Michael Kane (he/him) | Kaitātari Kaupapahere | Policy Analyst
Rōpū Kaupapahere | Policy Group
The Department of Internal Affairs Te Tari Taiwhenua

s.9(2)(a) OIA

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Thank you.

HOLDAWAY, Heather

From: HOLDAWAY, Heather
Sent: Friday, 9 July 2021 3:08 pm
To: BLACKWOOD, Jennifer (Jen)
Subject: Sex markers used at custody

Kia ora jen, and good to talk today

A brief summary of our conversation:

When segregating people in custody, female detainees must be segregated from male detainees, and transgender detainees, where identified or made known, from detainees whose gender they do not identify with

In practice, to determine someone's sex or gender, self-identification from the person is used.

The sex marker captured in the NIA is used as a guide, and also serves as a prompt to ask how the person identifies where information alerts providing further information around someone's sex or gender are attached in the NIA.

s.9(2)(g) OIA

the sex marker attributed to a person in the NIA is entered when someone is apprehended by police and identifying particulars taken, drivers licence etc may be used to verify this information. Birth certificates are not used by Police to determine someone's sex or gender when entering this NIA information.

Birth certificate information is not held by police, but by DIA. Changing birth certificate sex markers may affect how the NIA and DIA system aligns when talking about the same person.

Is this about right from an operational perspective?

Cheers

Heather

From: BLACKWOOD, Jennifer (Jen)
Sent: Friday, 9 July 2021 12:11 pm
To: HOLDAWAY, Heather
Subject: RE: Intro Email

I've got an appointment at 1300hrs, but will give you a call around 1400hrs if you're free?

From: HOLDAWAY, Heather <Heather.Holdaway@police.govt.nz>
Sent: Friday, 9 July 2021 11:26 AM
To: BLACKWOOD, Jennifer (Jen) <Jennifer.Blackwood@Police.Govt.NZ>
Subject: RE: Intro Email

Kia ora Jen

As Ben said below: I'd love to give you a quick call if possible and test my understanding re practice for gender identification in police custody

Let me know when works (ideally today if that's a goer?)

Cheers

Heather

Heather Holdaway
Assistant Policy Advisor (she/her)
Criminal Justice Policy

s.9(2)(a) OIA

E: Heather.Holdaway@police.govt.nz