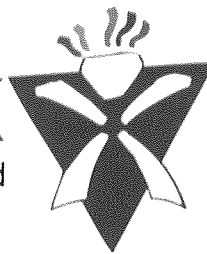


# EQUALITY NETWORK

Lesbian, Gay, Bisexual and Transgender Rights in Scotland



Lord Advocate Frank Mulholland QC  
Crown Office  
25 Chambers St  
Edinburgh  
EH1 1LA

8<sup>th</sup> March 2013

Dear Lord Advocate,

## **HMA v Christine Wilson**

I am writing on behalf of the Equality Network / Scottish Transgender Alliance, following extensive publicity of the above case. We are extremely concerned about the charge that was brought in this case, and the message that COPFS sends to the trans community by prosecuting a transgender person for presenting as a different gender to that which they were labelled at birth.

It seems to us to be clear that the wrong this prosecution was aiming to punish was that the accused lied about their age in order to have sexual relationships with young women under 16 years of age. It is not a criminal offence to present as a gender different to one's birth-assigned sex, and therefore it appears to be wholly inappropriate to charge a person with fraud in these circumstances. While we understand that at the same time as lying about their age the accused was presenting as a man, it is not clear why this was included as part of the deception element of the charge.

Whether or not this person was undergoing any treatment for gender dysphoria at the time of the offence, or presents as male all of the time, they are clearly transgender and have the protected characteristic of gender reassignment, as they are proposing to undergo a process, or part of a process, of reassigning their gender. It therefore appears to the

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trans community that COPFS is targeting the behaviour of individuals because of their gender reassignment status. Although we understand that some people may be distressed when they become aware of the gender history of a partner or former partner we strongly believe that individuals have a right not to share this private information, without fear of prosecution. There is no obligation to share other private information about oneself with partners or potential partners, and no obligation should therefore be put upon individuals just because they have the protected characteristic of gender reassignment.

As a result of COPFS handling of this case there have been a number of highly transphobic reports in the media. The press in Aberdeen have also published the full address of the accused putting them at serious risk of hate crime. As the Scottish Social Attitudes Survey highlighted, transgender people are particularly vulnerable to prejudice, and the fear this prosecution has caused amongst the trans community should not be understated.

We would therefore be very grateful if we could meet with you as a matter of some urgency, in order to discuss how COPFS can reassure the trans community, who are expressing to us concerns that this case means, in effect, the criminalisation of being transgender.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Tim Hopkins', with a long, sweeping horizontal line extending to the right.

Tim Hopkins

Director

Equality Network / Scottish Transgender Alliance