

Police forces: unlawful search policies

Briefing for Parliamentarians, July 2025

Overview

The Police and Criminal Evidence Act 1984 (“PACE”) requires that when the police undertake a “more thorough search” (that is, strip-search) of a detainee this must be done by an officer of the same sex.

Strip-searching is a major invasion of privacy for anyone. It engages human rights – Article 8: the right to respect for private and family life. It must be carried out in a way that is lawful, necessary and proportionate.

[Annex L of PACE Code C](#) provides statutory guidance on this. It was added to PACE Code C in 2012. But it misinterpreted the law, incorrectly advising that possession of a gender-recognition certificate (GRC) changed a person’s sex for the purpose of PACE, and that it is unlawful to ask if someone has a GRC.

It therefore instructed police forces to allow searches based on a detainee’s self-declared “gender”, and left it up to individual police forces to decide what to do in relation to transgender officers.

This misinterpretation resulted in police forces adopting unlawful policies that:

- allowed male officers who identify as female to search female detainees — a breach of PACE and of the human rights of women and girls
- put female officers under pressure to carry out searches of trans-identifying men – a breach of their own rights and dignity.

The April 2025 Supreme Court judgment in the case of [*For Women Scotland v Scottish Ministers*](#) clarified that the Gender Recognition Act does not modify the definition of sex in the Equality Act 2010. Man and woman retain their ordinary biological meaning. The judgment makes clear (at paragraph 156) that this legal reasoning also applies to other legislation where interpreting “sex” as being a matter of certificates or self-declaration rather than biology would lead to incompatibility, incoherence or unworkability.

However, Annex L (last updated in December 2023) remains in place and it misdirects police forces and detainees.

The PACE codes concern the exercise by police officers of statutory powers. Section 67(2) of PACE provides that the Secretary of State may at any time revise the whole or any part of a code. **The code is clearly out of line with the law and must be revised.**

Action so far

Following a legal challenge by Sex Matters, British Transport Police has withdrawn its unlawful policy and [admits](#) that the legal interpretation confirmed by the Supreme Court applies to PACE as well as the Equality Act. Merseyside, Northumbria Police, Surrey and Sussex and the Metropolitan Police have all followed suit, recognising that the Supreme Court ruling disapplies Annex L and withdrawing their own unlawful policies.

BUT other forces may still be applying unlawful “gender identity” search policies, and the National Police Chiefs’ Council has circulated new interim [Guidance for searching by transgender officers and employees of the police and the searching of transgender detainees](#), which proposes “consensual searches” based on gender identity.

This means that if a male detainee says that he is trans, the custody sergeant will try to find a female officer willing to do the strip-search. It also means that a young “transmasc” woman can ask to be searched by a male officer.

This is not in line with statutory powers conferred by PACE.

The [Police Federation has expressed serious concerns](#) about the legality of the NPCC interim guidance and how it could be applied in practice. It says that the “idea that detainees and police officers can sign their rights away by coming to a mutual agreement on searching” is wholly

unworkable and that “this nonsensical jumble provides no clarity at all for detainees, officers on the ground or in custody suites as to what they are lawfully able to do”.

Sex Matters has received testimony in interviews with female police officers, who emphasise that the male-dominated and hierarchical environment of policing would make it very difficult for them to refuse a request to strip-search a “trans woman”, despite the humiliation and degradation they would feel in searching such a man. A refusal would be perceived as “transphobic”, weak or unprofessional, and the statutory code undermines their rights.

Next steps

The Home Office must urgently update Annex L to bring it into line with PACE, in light of the Supreme Court judgment. The code should say that **searching is done by sex**.

This is the government’s responsibility. It must not rely on organisations like Sex Matters to hold individual police forces to account one by one. Nor should it stand back while the NPCC and individual police forces adopt new policies that are not in line with the law.

The law is clear following the Supreme Court’s judgment; there is no need to wait for guidance from the Equality and Human Rights Commission.

Annex L of PACE Code C must provide legally correct guidance about police officers’ statutory powers. It must

ensure that individuals with the protected characteristic of gender reassignment are treated with respect in line with their actual sex. It will need to establish protocols for when officers are unsure what sex someone is, or if there is some dispute about this. It cannot provide guidance suggesting “consensual searches” outside of PACE.

Parliamentarians can help by asking Home Office ministers to:

- **urgently revise Annex L of PACE Code C**
- **write to all police forces** and ask them urgently to confirm that they have withdrawn their unlawful policies and will comply with PACE
- **instruct the NPCC** to bring its new guidance into line with PACE.

OR arrange a meeting with us to discuss the issues in more detail and explore further ways to help.

For more information contact Laura Pascal at Sex Matters: PublicAffairs@sex-matters.org