

Archie Norman, chair  
Stuart Machin, chief executive  
Nick Folland, general counsel  
Marks & Spencer

9th March 2026

by email

Dear Archie, Stuart and Nick

**re: fitting rooms policy**

I am the CEO of Sex Matters, a human-rights charity that campaigns for clarity on sex in law and policy in the UK, in order to protect everyone's human rights.

Until recently Marks Spencer's clothing stores had clearly-labelled male and female fitting rooms located in the relevant departments. This is a sensible design choice; separate-sex changing facilities are the preference of the vast majority of people, in particular women.

Separate-sex facilities feel safe and comfortable, and are lawful under the Equality Act 2010 which provides that they can be provided where "a joint service for persons of both sexes would be less effective" and "the limited provision is a proportionate means of achieving a legitimate aim".

However in practice Marks & Spencers already had an unadvertised policy of allowing anyone to use either changing room.<sup>1</sup>

It is very disappointing that following judgements by the Supreme Court and the High Court which made clear that separate-sex facilities are lawful, Marks & Spencer's has not returned to a simple, separate-sex policy, but instead is badging what were labelled men and women's fitting rooms as "trying on" spaces, making them *less* effective, *less* welcoming and *less* safe in particular for women.

Presumably the ambiguous "trying on" signs were chosen rather than "unisex" because clearer signage would make it obvious what an unpopular and unsuitable policy this is.

Indirect discrimination occurs when a rule, policy, or practice applies to everyone but disproportionately disadvantages a group sharing a protected characteristic. Making changing

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<sup>1</sup> <https://corporate.marksandspencer.com/node/2236>

**Sex Matters is a human-rights charity promoting clarity about sex in law, policy and language**  
[sex-matters.org](https://sex-matters.org) | [info@sex-matters.org](mailto:info@sex-matters.org)

Trustees: Emma Hilton (chair), Michael Biggs, Rebecca Bull, Charlotte Cadden, Anya Palmer  
CEO: Maya Forstater

rooms mixed-sex has a disproportionate disadvantage for women. This is because women are subject to greater risks, vulnerability and modesty norms when undressing than men.

Undressing is deeply imbued with cultural meaning. Research shows that women and girls are far more likely than men and boys to feel uncomfortable changing in close proximity to strangers and in particular to strangers of the opposite sex than men are.

Research by criminologists has identified that women live in the “shadow of sexual assault”: fear of sexual violence is a pervasive feature of women’s and girls’ lives. This elevated fear is not irrational. Patterns of sexual offending by men and women are among the most robustly established findings in criminological research. Men make up around 98% of all convicted sexual offenders while women make up less than 2%. The vast majority of victims of sexual violence and predation are female. These are enduring patterns, confirmed year after year in official criminal statistics and self-reported data alike.

Most people will expect that a changing room in the womenswear department will be for women. Many women have told us of the experience of being surprised by hearing a man’s voice, or encountering a man in a space they had assumed to be female-only. The immediate reaction is fear. The statement we hear often is “I never went back”.

The legal situation is that there are risks of legal liability in both directions; the absence of single-sex female facilities could result in indirect sex discrimination, while offering only separate-sex facilities without a unisex option could result in indirect gender reassignment discrimination. In either case the defence is available that the policy is a “proportionate means to a legitimate aim”.

The question is whether it is really proportionate to make your changing rooms uncomfortable for the vast majority of female users in order to accommodate a small number of trans-identifying people?

Providing an additional unisex option in larger stores would certainly be proportionate and also helpful for mixed-sex family groups. Separate-sex fitting rooms (and the option to try on at home for those who don’t wish to use fitting rooms for their own sex) would also be proportionate. The decision to make all your changing rooms mixed-sex with ambiguous signage, is both a commercial and a legal liability. I hope you will rethink this decision.

I would be pleased to discuss this with you.

Yours sincerely

A handwritten signature in black ink that reads "Maya Forstater". The signature is written in a cursive, flowing style.

Maya Forstater, CEO