



Meeting	SPA People Committee
Date	28 August 2025
Location	Webex
Title of Paper	Supreme Court Ruling on Sex and Gender
Presented By	Assistant Chief Constable, Catriona Paton
Recommendation to Members	For Discussion
Appendix Attached	No

PURPOSE

The purpose of this paper is to provide the People Committee with an update on the practical implications for policing following the UK Supreme Court ruling on Sex and Gender.

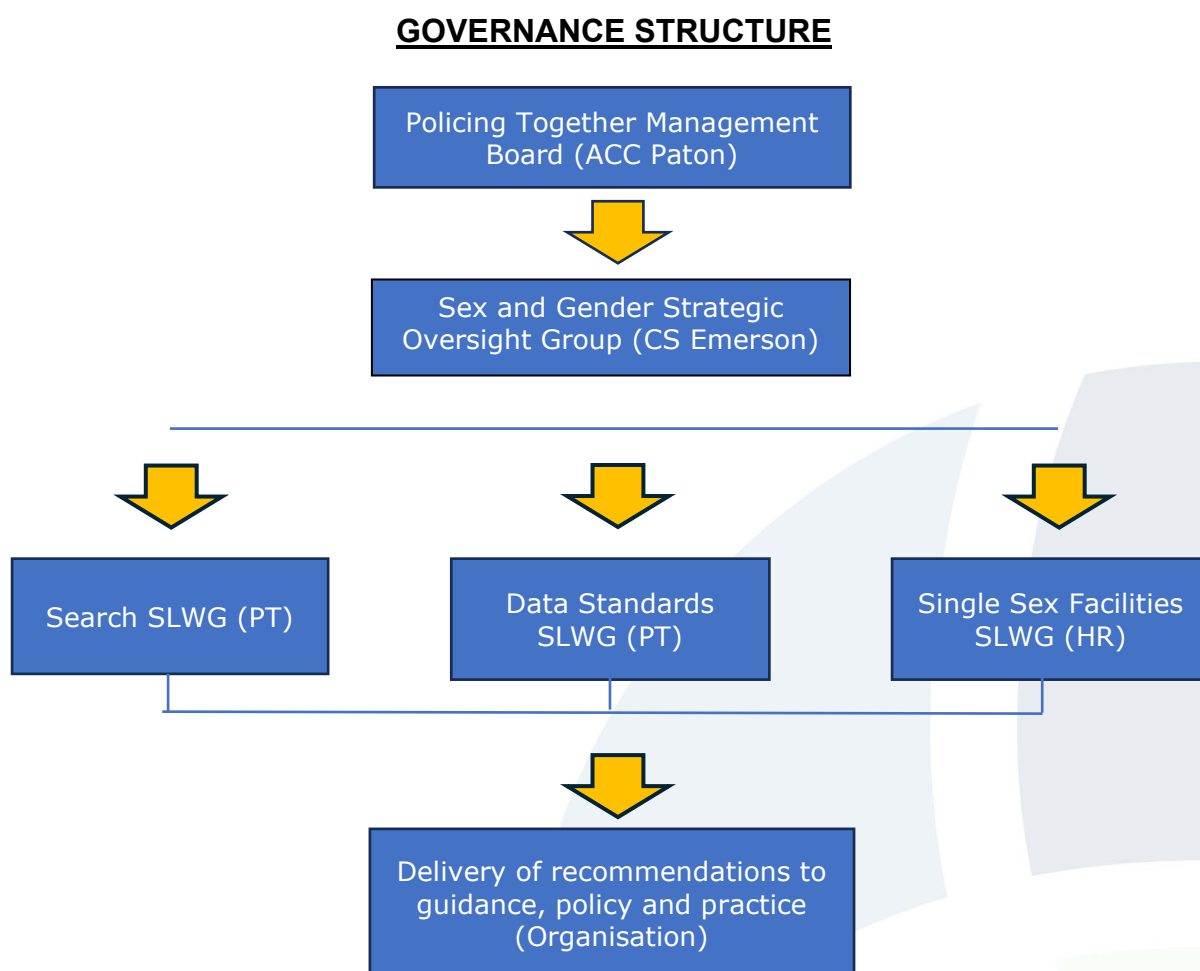
1 BACKGROUND

- 1.1. On 26 September 2024, Chief Constable Farrell addressed the matter of gender self-identification during a meeting of the Scottish Police Authority.
- 1.2 During this statement, the Chief Constable stated that ACC Catriona Paton would review Police Scotland's recording and use of data relating to sex and gender.
- 1.3 On 16 April 2025, the UK Supreme Court delivered a ruling in the case *For Women Scotland Ltd v The Scottish Ministers* that the term sex referred to biological sex for all purposes under the Equality Act 2010.
- 1.4 The wellbeing of our people and communities is a priority. Following the UK Supreme Court decision, ACC Paton has circulated a series of messages signposting our people and communities to a range of established support mechanisms recognising the impact the decision may have on individuals' lives. Ongoing engagement has also provided the opportunity to listen to and understand how staff and communities feel following the decision and to ensure that we remain sensitive and attentive in our thinking and approach to this work.
- 1.5 This report will provide an overview of the progress to date on two key areas impacted by the Supreme Court judgement which are particularly relevant to our people: search and single sex facilities.

2 REVIEW AND GOVERNANCE

- 2.1 Briefing papers have previously been submitted to the SPA Policing Performance Committee (10 December 2024 and 10 June 2025) highlighting the remit and planned approach of our review relative to data recording standards and terminology used in respect of sex and gender together with progress on work ongoing in light of the Supreme Court judgement.
- 2.2 As matters involving sex and gender are not limited to data recording, it was important that Police Scotland reviewed its policies, processes and practice impacted by the UK Supreme Court ruling and, where relevant, provide updated guidance.

- 2.3 Coordination for the review is being undertaken through well-established Policing Together structures and is mapped out below.



- 2.4 As can be seen, the review has been split into 3 thematic areas with cross cutting issues. Independent working groups have been established for each of these themes with leads reporting into the Sex & Gender Strategic Oversight Group and ultimately through the Policing Together governance structures.
- 2.5 It is of note, that there are a number of other areas of guidance, policy and practice which may be impacted by the ruling, however where the impact is less significant or less complex, whilst these areas will remain with the relevant Heads of Departments (HOD) for ownership and progression, Policing Together are keeping a central register of all work ongoing in this area to ensure coordination and accurate progress reporting.
- 2.6 The ongoing work has involved collaboration with HOD's and Strategic Leads to identify and prioritise areas affected. Human

Resources Rationale Decision Making Model (RDMM) is being applied to support a consistent approach to prioritisation. Police Scotland have also supported the Metropolitan Police to conduct a similar process sharing our own good practice via NPCC channels.

3 SEARCH UPDATE

- 3.1 As stated above, as part of our ongoing work, we have been considering affected areas of operational policing, including the procedure for conducting certain kinds of searches, to provide clarity to our colleagues and communities.
- 3.2 Police Scotland must ensure that it is acting in line with its duties under the Equality Act and the Human Rights Act, and that officers and staff feel confident that they are conducting searches lawfully.
- 3.3 In June 2025 interim search guidance was circulated by the National Police Chiefs Council (NPCC).
- 3.4 We continue to work in a careful and considered way, ensuring that we act at a point where we feel we have gained sufficient understanding and clarity that ensures we remain legally compliant as well as responsive to the impact of decisions on staff and communities. Our approach remains rooted on a foundation of engagement and transparency.
- 3.5 Careful consideration was given to ensure that our interim guidance, whilst similar to NPCC guidance which supports a consistent UK Policing approach, followed the Scottish Legal Framework and aligned to the Scottish Government Code of Practice.
- 3.6 On 25 June 2025, Police Scotland published *Interim Guidance – Searching of transgender persons and searching by transgender police officers and staff*. This provided guidance for such searches both in the custody environment and in the community (statutory stop and search).
- 3.7 The guidance states that officers and staff will undertake all searches whether in custody or as part of a stop and search interaction, which involve the removal of more than a jacket, gloves, headgear or footwear, on the basis of biological sex.
- 3.8 The guidance also states that when an individual, whose lived gender differs from their biological sex is subject to search and requests to be searched by an officer of their lived gender, efforts

will be made to ensure an appropriate officer conducts the search, where it is operationally viable to do so.

- 3.9 In these circumstances written consent will be required from the authorising officer (Inspector rank or above), the person to be searched, and the officer(s) conducting the search.
- 3.10 The interim guidance permits officers to be excused from searches for a variety of reasons with no further justification required and there will be no career detriment.
- 3.11 The guidance was developed following extensive advice from our legal team and independent Human Rights Advisor, as well as engagement with relevant business areas, staff associations, trade unions, the Scottish Government and other key partners.
- 3.12 Scenario based examples and FAQs are being developed to build on and support the practical application of the interim guidance.
- 3.13 A full communication strategy was prepared to support the Interim Guidance being released, which included support for all colleagues who may feel impacted by decisions taken.
- 3.14 Stop and Search in Scotland is governed by the Scottish Government Code of Practice. This is the primary source from which the Police Scotland Guidance, Policy and SOP were derived. Scottish Government have now commenced the consultation process for reviewing the Code of Practice however, whilst work has been expediated, it is unlikely to be published until early 2026.

4 SINGLE SEX FACILITIES

- 4.1 As an employer, Police Scotland has a duty to ensure that its workplaces comply with The Workplace (Health, Safety and Welfare) Regulations 1992, which include specific requirements in relation to the provision of suitable and sufficient facilities including toilets, changing facilities and shower rooms.
- 4.2 The Supreme Court judgment directly impacts who is allowed to use single-sex facilities and Police Scotland has developed interim guidance, again after considering extensive advice from its legal team and independent Human Rights Advisor, as well as engagement with relevant business areas and staff associations.
- 4.3 The guidance outlines the following requirements for the use of toilets, changing facilities and shower rooms:

- Single sex facilities designed and designated for the sole use of females or the sole use of males across Police Scotland workplaces must be accessed and used on the basis of a person's biological sex (sex at birth).
- Facilities designed and designated as mixed sex (i.e. non-single sex facilities) may be used by anyone.
- Facilities designed and designated as a single occupant space, which is a self-contained facility, secured by a lockable door, may be used by anyone.

- 4.4 We recognise that the range of facilities varies across our estate and that there are different options available for accessing facilities dependent on where an individual officer or staff member is based. Police Scotland is currently conducting a review of our estate and the suitability and sufficiency of toilets, changing facilities and shower rooms.
- 4.5 We recognise that there will be a small number of colleagues whose use of facilities will be directly impacted by these new arrangements and that this may cause anxiety and distress. We are endeavouring to ensure suitable facilities are put in place for individuals where mixed-sex or single occupancy facilities are not currently available at their workplace.
- 4.6 Police Scotland is committed to ensuring that all our officers and staff are treated with dignity and respect in their place of work and the wellbeing of staff remains of critical importance as we continue to navigate this complex and sensitive area.
- 4.7 The interim guidance has been supported by a communication plan, which includes support available for all colleagues who may feel impacted by decisions taken.

5 WIDER CONTEXT - DATA STANDARDS UPDATE

- 5.1 As stated at the outset of this paper, Police Scotland data recording standards as it relates to sex and gender have been subject to discussion and review for a considerable period, recognising that across our policies, practices and guidance, the terms 'sex' and 'gender' were being used interchangeably. This has been subject to a previous briefing paper which was submitted to the SPA Policing Performance Committee on 10 December 2024.
- 5.2 A Short Life Working Group (SLWG) established as part of this review produced several proposals in relation to our data recording standards. As matters involving sex and gender were to be impacted by the UK Supreme Court ruling in respect of *For Women*

Scotland Ltd v The Scottish Ministers, progression of these proposals to stakeholder engagement was initially delayed. Diversity Staff Associations were represented on the SLWG.

- 5.3 Following the UK Supreme Court outcome, ruling that for all purposes under the Equalities Act, sex is biological, the review relative to data recording standards progressed to stakeholder engagement. This took place at the SPC on 29 May 2025 with 55 interested bodies invited to attend, including SPA (who were represented at the event).
- 5.4 At the conclusion of the stakeholder engagement event, all invitees were sent a link to an online feedback form, where they were able to provide detailed comments on the proposals made, allowing everyone to contribute, even if unable to attend the event in person.
- 5.5 Feedback was received from 20 participants, which forms the basis of a 47-page document. In general, participants were supportive of the proposed approach to record biological sex and details about gender identity as two separate fields, however some observations and suggestions were raised regarding the construction of the questions used to obtain this data.
- 5.6 Work continues in this area, to learn from the feedback and adopt a position which best suits our operational requirements, legal framework, values and is supported by an EqHRIA.
- 5.7 Further stakeholder engagement took place early August through PSD Ethics Advisory Panels. Once the relevant feedback has been considered, a comprehensive report, detailing findings and recommendations, including policy decisions needed and/or systems and practice changes or improvements required, will be produced. Initial costings surrounding the required changes for priority Policing systems has been calculated and engagement is on-going with IT to support an implementation plan.
- 5.8 A further communications strategy is being prepared to also support this part of the work.

6 FINANCIAL IMPLICATIONS

There are financial implications associated with this report. These will be explored as part of this review.

7 PERSONNEL IMPLICATIONS

There are personnel implications associated with this paper. These are to be fully explored and recorded as part of the review.

8 LEGAL IMPLICATIONS

There are legal implications attributed to this report. These are to be fully explored and recorded as part of the review.

9 REPUTATIONAL IMPLICATIONS

There are reputational implications associated with this paper. These are to be fully explored and recorded as part of the review.

10 SOCIAL IMPLICATIONS

There are social implications associated with this paper. These are to be fully explored and recorded as part of the review.

11 COMMUNITY IMPACT

There are community implications associated with this paper. These are to be fully explored and recorded as part of the review.

12 EQUALITIES IMPLICATIONS

There are equality implications associated with this paper. These are to be fully explored and recorded as part of the review.

13 ENVIRONMENT IMPLICATIONS

There are environmental implications associated with this paper. These are to be fully explored and recorded as part of the review.

RECOMMENDATIONS

Members are invited to discuss the information contained within this report.