

The NEC notes that the EHRC Code of Practice in response to *For Women Scotland v Scottish Ministers* has been published.

The NEC also notes the Unite statement on the Code, which states: “Unite’s policy position, reaffirmed at our recent Policy Conference, remains clear: trans women are women, trans men are men, and our non-binary colleagues must have full legal recognition.”

There are issues with the Code which cause serious concern for PCS reps and members. There are already examples of misapplication of the Code, and health and safety ramifications for members (both Trans+ and not) as a result.

The Code is not yet in force, and requires Minister for Equalities Bridget Philipson MP must sign a commencement order. From the date of publishing, Parliament had 40 days to scrutinise the guidance. An Early Day Motion was tabled by Nadia Whitome MP. PCS therefore had the opportunity to intervene in this scrutiny period via campaigns amongst our members and the PCS Parliamentary Group. Due to the General Secretary’s view on the validity of the 11 June NEC, the instructions contained in the previous motion on this topic have not been enacted. This means that despite NEC instructions PCS has not intervened on the Code of Practice, which has been noted by members. This is unacceptable and must change immediately.

The NEC notes ADC 2026 overwhelmingly carried A348 which (amongst other things) committed PCS to defending Trans+ workers in the workplace in anticipation of the Code being published, and campaigning to change the law. As mentioned we missed the opportunity to intervene during Parliamentary scrutiny.

Government People Group have produced guidance which has been sent to all Westminster departments, with instructions to implement it exactly without any changes. PCS was not consulted. This guidance is incredibly harmful to Trans+ staff and cisgender staff alike, particularly as the metric of policing the guidance seems to be whether someone thinks a colleague shouldn’t be in a certain toilet and feels uncomfortable. It also contains numerous legal inconsistencies.

The NEC believe the guidance is unworkable in practice in most workplaces. This will mostly be due to either:

1. inadequate facilities which make the guidance unworkable in practice in the immediacy (without having a negative effect on multiple different sub-groups of staff e.g. trans+ staff and disabled staff) or
2. by requiring a discriminatory disciplinary process whereby staff, when using facilities, are challenged about their sex by the employer, or other staff are encouraged by the employer to challenge fellow staff based on their own assumptions about likely sex of a facilities user, with significant risk of discrimination and harassment of both cis and trans+ women as a result.

The NEC further notes with concern that civil servants were banned from attending Bristol Pride in any official capacity. This echoes the Christian Institute legal case against PCS and displays a worrying trend of the Civil Service and Labour government bending to populist right wing demands, to the detriment of staff.

The NEC agrees:

- The General Secretary should write to Bridget Philipson immediately urging her not to sign the commencement order, with drafting input from PCS Proud and to be signed off by the Senior Lay Officers.
- The General Secretary should write urgently to Cat Little demanding immediate consultation on the Government People Group guidance, and for roll out of any changes in departments to be halted.
- The NDC, PCS Proud and PCS Legal should meet urgently to discuss PCS's stance and interventions from a legal perspective on Trans+ issues. This should include:
 - ◆ Legal advice to inform guidance for reps about how to defend Trans+ members' rights and dignity at work
 - ◆ Legal advice on how best to resist the specific implementation of the sex based facilities requirements in government workplaces. For example, making gender neutral facility provision the norm and employers encouraging members of staff not to police each other with regards to their gender identity when using facilities.
 - ◆ Exploring the possibility of a judicial review of the GPG guidance
 - ◆ Handling of the Christian Institute legal case, including the possibility of accepting pro bono assistance from the Good Law Project
 - ◆ Challenging any banning of civil servants from attending Pride marches in an official capacity.
- The Union's bargaining position (to be communicated to negotiators at national and delegated level) is that in most workplaces, the EHRC guidance cannot be implemented as outlined in the body of this motion.
- Urgent bargaining guidance to be drafted and agreed by the NDC to go out to Groups and Branches to resist exclusionary changes to HR policy as a result of the Government People Group guidance (and/or their counterparts in devolved and commercial sector), and to defend members impacted by policy changes.
- To reinstate the preexisting PCS Trans Awareness Training Course, with content continuing to be directed by PCS Proud.
- To encourage and facilitate widespread attendance at Pride events by PCS members under the PCS banner.
- The progress of A348 should be overseen by the Equality Coordinating Committee of the NEC once stood up.