

WHO CARES ABOUT STATE SANCTIONED SEXUAL ASSAULT?

Responses from MPs, PCCs and Chief Constables



A report from Women's Rights Network

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WHO CARES ABOUT STATE SANCTIONED SEXUAL ASSAULT?

State Sanctioned Sexual Assault

Women's Rights Network (WRN) released our report [State Sanctioned Sexual Assault](#) on 8 January 2024, revealing that the National Police Chiefs Council (NPCC) had approved an unlawful search policy in December 2021. That unlawful policy was implemented by at least 34 forces across England, Scotland, Wales and Northern Ireland.

Reaction to the report

- The report was raised at the [Home Affairs Select Committee on 10 Jan 2024](#) by Diana Johnson MP. The Policing Minister Chris Philp MP was clear that the policy was unlawful;
- The NPCC provided no defence of their policy, and **temporarily** withdrew the guidance for its implementation on 11 January 2024 "for review". No end date has been announced for this review which is expected to take 4 to 6 months. Local forces were instructed to revert to local policies;
- A group of MPs formally wrote to Chris Philp expressing their view that the policy was unlawful, and that a GRC does not make opposite-sex searching lawful.

Follow up action by Women's Rights Network

At the end of January 2024, WRN made Freedom of Information (FOI) requests to find out if the 46 local police forces were still operating the unlawful (and now withdrawn) policy:

- 18 are *still* permitting opposite-sex searches;
- 9 comply with the Police And Criminal Evidence Act 1984;
- 3 forces (West Mercia, Wiltshire and Merseyside) have no search policy;
- 2 forces (Hampshire and North Wales) follow a College of Policing policy;
- 14 had not still responded by 27 March¹.

Women who wrote to their MP, their PCC and their local force Chief Constable were, with a few honourable exceptions², offered no explanation or apology for the implementation of this unlawful policy.

Required next steps

Immediate action is required from MPs, from Police and Crime Commissioners, and from Chief Constables to ensure that all police policies and guidelines comply with PACE.

The police are there to enforce the law and MUST operate policies that are lawful. This is the very least we expect of our police service and MPs and PCCs must hold them to account.

¹ Response was required by 29 Feb to comply with the Freedom of Information Act 2000.

² We would particularly like to thank Nick Fletcher for speaking out, and we are grateful to all MPs who publicly objected to this policy.

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Freedom of Information Requests

At the end of January, FOIs were sent to each of the 46 police forces across England, Scotland, Wales and Northern Ireland regarding their current search policy³, and the NPCC was asked about its suspension.

Only 9 of those 46 police forces responded unambiguously and stated that they are conducting same sex searching as required by PACE 1984.

Two forces (Hampshire and North Wales) are using [College of Policing guidance](#) which does not cover stop searches and does not have the same level of operational detail as PACE. Some searches may, therefore, still be unlawful.

Fourteen forces have not responded to our FOIs despite being beyond the statutory 20-day period by which a response should have been given.

Eighteen forces confirmed that they still permit “more thorough” searches to be conducted by officers of the opposite sex. These fall into three categories:

1. The NPCC guidance is still being followed despite having been withdrawn;
2. Opposite-sex searching is permitted if the officer holds a GRC;
3. Opposite-sex searching is permitted on a case-by-case basis. For two forces, this is at the discretion of a named police officer.

The operational policy for three forces is unknown. Wiltshire have no policy at all, and West Mercia and Merseyside are in the process of developing a policy.

The NPCC has only temporarily withdrawn its guidance.⁴

Force Response	Number of Forces
CoP guidance	2
No response	14
Opposite sex permitted	18
PACE Compliant	9
Unknown	3
Total	46

³ See Appendix A for the FOI questions and a full list of responses by police force.

⁴ See Appendix A - NPCC FOI: Suspension of the Guidance

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Letters to MPs and PCCs

WRN members wrote to their MPs⁵ and PCCs to make them aware of our report, released on 8 January 2024, and the subsequent withdrawal of the unlawful NPCC guidance. We asked them to raise their concerns with Chief Constables.

The responses were mostly unhelpful and lacked any curiosity as to why an unlawful policy had been implemented in the first place.

For example, David Sidwick, Dorset PCC replied:

I have now received an update from the Force that a full legal review has been commenced on the matter nationally and the Force will also conduct its own local review of processes.

I understand this situation is complex and the legal review is likely to take several months. Until I receive the outcome of the national and local review, I do not think it would be appropriate for me to comment further, save to say that I think these reviews are absolutely appropriate to occur.

The reply from Angelique Foster (Derbyshire PCC) is at odds with the FOI response from Derbyshire which was clear that the NPCC policy remained in place:

Chief Superintendent Emma Aldred has assured me that Derbyshire Constabulary regularly reviews its policies and procedures, and they pride themselves on treating people with dignity and respect. The Constabulary's policy and procedures around personal searches within a Custody setting are in line with applicable legislation and follow the guidance in the relevant Codes of Practice for the treatment of detained persons issued by the Home Office under the Police and Criminal Evidence Act 1984 (PACE).

Both Conservative and Labour MPs used a boiler plate set of paragraphs which failed to address the concerns raised⁶.

We were told combinations of the following:

- Forces have reverted to their own local policies while the national policy is under review;
- Searches are conducted on a case-by-case basis based on the response of the detainee and according to Equality Act 2010;
- That a GRC gives a male police officer who identifies as a woman the right to perform a more thorough search on a woman;
- That reform of the Gender Recognition Act was something they supported;
- That if a woman objects to being searched by a male officer, she can object;
- That there is some “common-sense” approach that will solve the impasse.

⁵ Sample letter available in Appendix B

⁶ Appendix C

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Women challenged these boiler plate responses, and some MPs reconsidered their position.

We know from the FOI responses that many forces (perhaps most) do not have a local search policy that is compliant with PACE.

A case-by-case assessment to determine whether a male officer should be allowed to search any woman is certainly not permitted. It is not required by the Equality Act 2010 either, which has clear single-sex exceptions for the protection of women's bodies and dignity.

Women have rights too. Those single-sex exceptions are not trumped by a Gender Recognition Certificate, neither would the current unacceptable situation be improved by the removal of safeguards from the GRA. Furthermore, most local policies are explicit that under no circumstances should an officer request to see a GRC, effectively removing current safeguards for operational purposes already.

Even though provision is made for a woman to object to an opposite-sex search, this supposes that she knows that she has that right, is brave enough to request it, and is willing to be criminalised for doing so.

For most people, a common-sense approach would be to make sure that women are searched by other women (using the common-sense definition: adult human female).

Women are using our common-sense. We want to be treated with dignity, and we want police policies to be lawful.

Letters to Chief Constables

Chief Constables are accountable for the policies and processes operated by their force. They are, in effect, the “Chief Operating Officer” for their organisation, and bear the additional responsibility of having approved the unlawful policy and guidance at the NPCC Meeting in December 2021.

In many cases, the NPCC policy had been implemented for more than a year and officers would have been trained in the new guidance. Withdrawal of the guidance would not be sufficient on its own to revert to a lawful policy.

Therefore, letters were sent to Chief Constables drawing their attention to the WRN report and asking:

1. How the withdrawal of the NPCC guidance had been communicated to police officers.
2. Whether unlawful opposite sex searches were still permitted in their area.

Where letters were responded to, our questions were unanswered. FOIs were needed to elicit information.

Instead, we were given a copy/paste response provided by the NPCC and told that searches are carried out in line with training, took PACE into account and were conducted safely and with dignity.

Appendices

Appendix A – FOIs and Force responses

The FOI questions:

On 13th January 2024, it was widely reported that the NPCC had withdrawn its policy and guidance agreed previously at an NPCC meeting on 9/10 December 2021 dealing with the ability of officers to self identify as the opposite sex and conduct searches that are 'same sex' only under the provisions of the Police & Criminal Evidence Act 1984.

The NPCC stated at this time that forces would revert to their own local policies.

I specifically seek to know:

1. Whether this force has also withdrawn the NPCC policy above and on what date it did so.
2. In respect to searches exceeding the most basic search of outer clothing, commonly referred to as more thorough searches, strip searches or intimate searches, please advise whether this force permits any searching to be conducted by an officer of the opposite sex.

For clarity, "sex" here means biological / physical sex, regardless of how the officer identifies, whether by way of a Gender Recognition Certificate or via verbal self-identification.

3. If this force is still permitting such opposite sex searching to continue, which officer has made that decision. Please also identify the rank of the officer.

Force Responses

Follow the link on the force name to see the force policy reported by the original State Sanctioned Sexual Assault report.

Follow the Link to FOI to see the force response to the FOI establishing the current policy.

Police force	FOI Response	
Avon and Somerset	Opposite-sex searching permitted - decided case-by-case	Link to FOI
Bedfordshire	Opposite-sex searching permitted - decided case-by-case	Link to FOI
British Transport Police	Opposite-sex searching permitted - decided case-by-case	Link to FOI
Cambridgeshire	Retaining the NPCC policy while it is being reviewed	Link to FOI
Cheshire	No Response	
City of London	No Response	

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<u>Cleveland</u>	No Response	
<u>Cumbria</u>	No Response	
<u>Derbyshire</u>	Retaining the NPCC policy while it is being reviewed	Link to FOI
<u>Devon and Cornwall</u>	No Response	
<u>Dorset</u>	Same-sex search unless following PACE C annex L	Link to FOI
<u>Durham</u>	Same-sex search unless following PACE C annex L	Link to FOI
<u>Dyfed Powys</u>	Same-sex search unless following PACE C annex L	Link to FOI
<u>Essex</u>	Same-sex search unless following PACE C annex L	Link to FOI
<u>Gloucestershire</u>	Opposite- sex searching permitted if GRC is held	Link to FOI
<u>Greater Manchester</u>	Opposite-sex searching permitted - decided case-by-case	Link to FOI
<u>Gwent</u>	No Response	
<u>Hampshire</u>	Using College of Policing Detention and Custody guidance	Link to FOI
<u>Hertfordshire</u>	Opposite-sex searching permitted - decided case-by-case	Link to FOI
<u>Humberside</u>	Same-sex search unless following PACE C annex L	Link to FOI
<u>Kent</u>	Same-sex search unless following PACE C annex L	Link to FOI
<u>Lancashire</u>	No Response	
<u>Leicestershire</u>	No Response	
<u>Lincolnshire</u>	Retaining the NPCC policy while it is being reviewed	Link to FOI
<u>Merseyside</u>	NPCC policy suspended. Interim policy in development	Link to FOI
<u>Metropolitan (London)</u>	Opposite-sex searching permitted if GRC is held	Link to FOI
<u>Norfolk</u>	Retaining the NPCC policy while it is being reviewed	Link to FOI
<u>Northamptonshire</u>	No Response	
<u>Northumbria</u>	No Response	
<u>North Yorkshire</u>	No Response	
<u>North Wales</u>	Using College of Policing Detention and Custody guidance	Link to FOI
<u>Nottinghamshire</u>	Opposite-sex searching permitted - decided case-by-case	Link to FOI
<u>Police Scotland</u>	Same-sex search unless following PACE C annex L	Link to FOI
<u>PSNI (Northern Ireland)</u>	Opposite-sex searching permitted if GRC is held	Link to FOI
<u>South Wales</u>	No Response	
<u>Staffordshire</u>	No Response	
<u>South Yorkshire</u>	Retaining the NPCC policy	Link to FOI
<u>Suffolk</u>	NPCC "guidance withdrawn" but still being applied	Link to FOI
<u>Surrey</u>	Opposite-sex searching permitted if GRC is held	Link to FOI
<u>Sussex</u>	NPCC policy implemented as at 30 Jan 2024	Link to FOI
<u>Thames Valley</u>	NPCC "guidance withdrawn" but still being applied	Link to FOI
<u>Warwickshire</u>	No Response	
<u>West Mercia</u>	NPCC policy suspended. Interim policy in development	Link to FOI
<u>West Midlands</u>	Same-sex search unless following PACE C annex L	Link to FOI
<u>West Yorkshire</u>	Opposite-sex searching permitted - decided case-by-case	Link to FOI
<u>Wiltshire</u>	NPCC policy suspended. No interim policy.	Link to FOI

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FOI: NPCC Suspension of the Guidance

The NPCC was asked to provide a copy of:

1. Any communication to forces advising them of the suspension of the policy and guidance.
2. Any instructions to forces advising them of the process to be followed in the meantime.
3. Any communication to forces detailing the 'thorough review' and when this will be concluded by.
4. Details of any consultative process that form part of the 'thorough review' and specifically, what groups or individuals are being or will be consulted with.

The [NPCC response](#) is detailed, and includes two letters from CC Vanessa Jardine confirming that **withdrawal of the unlawful guidance is temporary**.

[The first](#) letter suggests that local policies should be used, and case-by-case decisions will be made in respect of who is permitted to carry out searches.

[The second](#) letter provides the paragraph used to respond to our enquiries and advises local forces to comply with PACE 1984.

Furthermore, a 4-to-6-month review is to be conducted which will:

- Seek legal advice and review of case law.
- Consult with police forces and relevant associations both internal and external.
- Consult with other organisations who conduct searches.
- Consult with those who will be authorising and conducting searches and those who may be subject to a search.

The relevant associations to be consulted will include internal and national staff associations, NPCC representatives for Custody, Stop/Search, Gender, VAWG and LGBT+, transgender groups, gender critical/sex realist groups, men's groups and women's groups.

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Appendix B – Example letter to MPs

Dear [XXXXXXX],

I wish to draw your attention to a new report highlighting the approval of an NPCC (National Police Chiefs' Council) policy that permits police officers to strip and even intimately search suspects of the opposite sex if the officer self-identifies as the same "gender" as the person being searched.

This new report, based on Freedom of Information responses by WRN members, indicates that many forces have implemented this shocking policy that represents nothing less than state sanctioned sexual abuse of vulnerable women. The report is available to read from this website <https://www.womensrights.network/wrn-police-report>, and is also attached to this email; the NPCC policy proposal is provided in full in Appendix E and the published guidance on searching is presented Appendix F of the WRN report.

Heather Binning, founder of WRN, made a statement that fully encapsulates how women feel about this policy:

"The power to search is fundamental. It involves a legalised personal assault, particularly when this involves a strip or intimate search. As a society we accept that when this is carried out lawfully, it is a reasonable price to pay to ensure safety and lawful protection. However, these actions can only be carried out under the principle of "policing with consent" if they are both reasonable and lawful. This is not reasonable or lawful and we do not consent. It is state-sanctioned sexual assault, and it must not be tolerated".

Please can you investigate this matter and raise it with the Chief Constable of our local force, and reassure me that you will do everything in your power to protect women in custody by calling on the NPCC to withdraw this flawed and dangerous policy, which contravenes the Police and Criminal Evidence Act 1984 (PACE) and is not compliant with the Equality Act 2010 and associated Public Sector Equality Duties. It also leaves officers open to a charge of sexual assault.

- This policy should be withdrawn.
- There should be absolute reassurance that any female who refuses to be subjected to a strip search or an intimate search by a male officer while in custody will not be recorded as a hate crime.
- The recommendations outlined in the WRN Report (page 13) should be addressed by local forces.
- The NPCC and local forces should consult with women's groups before any policy that impacts females is implemented.

If you need any further information, please don't hesitate to get in touch.

Appendix C – MPs responses

Template Labour MP response

There are two types of strip searches. One requires the removal of clothing such as a t-shirt, whereas the second requires all or most of the individual's clothing to be removed. The PACE codes set out how police powers should be used and outline that strip searches should only be undertaken by an officer of the same sex as the individual being searched.

In December 2021, the National Police Chiefs Council (NPCC) published guidance on strip searches undertaken by transgender officers. Reports at the time state that the guidance advised Chiefs to recognise the status of transgender colleagues from the moment they transition. Under this guidance, once a transgender colleague has transitioned, they are able to search persons of the same gender as their own lived gender.

The Government has responded to state that strip searches should only be undertaken by officers of the same sex, whether that is their born biological sex or that they are in possession of a formal court authorised gender recognition certificate. The NPCC has confirmed that it is now conducting a thorough review of this guidance. In the meantime, forces have been advised to revert to their own policies on strip searches. Please be assured that I will continue to monitor this situation for any further developments.

I believe that we need to modernise, simplify and reform the gender recognition law to a new process. This involves removing invasive bureaucracy and simplifying the process, while maintaining the requirement to obtain a medical diagnosis of gender dysphoria. This remains an important part of accessing a gender recognition certificate as requiring a diagnosis upholds legitimacy of applications and confidence in the system.

I also remain committed to supporting efforts to protect and uphold the Equality Act, including its provision for single-sex exemptions. For more than thirteen years, this Act has protected people from discrimination because of their age, disability, gender reassignment, marriage or civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

In my view, we need a common-sense approach that provides clarity for service providers for when transgender people should be included and when excluding them is proportionate and legitimate.

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Template Conservative MP response

I know that the National Police Chief's Council (NPCC) agreed guidance allows opposite sex searches based on gender (as opposed to biological sex). The Police Minister is clear that strip searches should be conducted by someone of the same sex, which can be based on biology or formal court authorised gender recognition certificate. Ministers have asked the NPCC to review their guidance in light of this.

However, I am aware that the NPCC maintains that all searches are dealt with on a case-by-case basis after consideration by a custody sergeant based on the response of the detainee. All searches are carried out in line with the office or staff members training and legal authority, taking into account responsibilities under both the Equalities Act 2010 and Police and Criminal Evidence Act 1984.

The guidance is clear that if the person being searched objects to being searched by any colleague, it may be advisable for them to be replaced by another team member to search that person. It also states that this is regularly done in practice, regardless of the reasons for objection.

The **Women's Rights Network** (WRN) is a rapidly growing grassroots network of women from England, Wales, Scotland and Northern Ireland whose primary focus is to defend the sex-based rights of women



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