

# STATE SANCTIONED SEXUAL ASSAULT

*Women pay the price for policing beyond the law*



A report from Women's Rights Network

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# STATE SANCTIONED SEXUAL ASSAULT

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# STATE SANCTIONED SEXUAL ASSAULT



## HEATHER BINNING

FOUNDER OF WOMEN'S RIGHTS NETWORK

We are entitled to expect the highest standards from our police officers, and that includes the leadership of the service. However, the overreach by police outlined in this report is shocking.

We all rely on the police to protect us from crime and disorder and to bring to justice those who offend against us. To do this they are given extensive powers to detain and arrest us when necessary, and to use reasonable force in the execution of those powers.

Following the appalling murder of Sarah Everard by a serving Metropolitan police officer, many solemn proclamations were made by police chiefs to listen to women and to rebuild badly damaged trust. The decision of the National Police Chiefs' Council to allow male officers to strip and intimately search women and girls if those men identify as women does the opposite.

As if it was not bad enough that female officers were already required to carry out strip and intimate searches of any man who calls himself a woman or face internal disciplinary procedures, those male officers claiming to be women are now sanctioned under this policy to strip and intimately search **women**.

The power to search – whether prior to arrest (a stop search) or after arrest – 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” (a key principle of the Police Code of Conduct) if they are both reasonable and lawful.

The Equality Act 2010 is a shield, not a sword. It protects individuals from being treated unfairly. Too many organisations, including the police, have been convinced by lobby groups that it instead confers privileges. Self-ID is not UK law and women should not be paying the price for policing beyond the law.

Police chiefs have failed us, again. This is not reasonable or lawful and we do not consent. It is state-sanctioned sexual assault, and it must not be tolerated.

“ This is not reasonable or lawful and we do not consent. It is state-sanctioned sexual assault, and it must not be tolerated. ”

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**CATHY  
LARKMAN**

POLICE SUPERINTENDENT - RETIRED

I am very grateful that this scandal is being exposed by the Women’s Rights Network and I am privileged to have worked alongside those who see the injustice of the approach taken by the National Police Chiefs Council.

During my police service, I was constantly urged to uphold the principles of policing with consent and with integrity and fairness. As I was promoted, I took the opportunity to ensure that the officers I had the privilege of supervising also knew these were the standards they must uphold in order to fulfil their public duty.

Because policing is a public duty and police officers are public servants who take the police oath of attestation<sup>1</sup>. In this oath, officers swear to serve with *“fairness, integrity, diligence and impartiality, upholding fundamental human rights and according equal respect to all people”*.

Policing is often a thankless and difficult job and must therefore have strong leaders. Those who can make decisions which are in the best interests of the public and of the service. We need leaders who are lawful, impartial, reasonable and ethical in their decision-making and leadership. I am therefore deeply shocked that the National Police Chiefs Council has failed in respect of all these principles.

I have instead seen a service now riven with the influence of ideologues, a service that puts more value on the words and feelings of extreme activists and lobbying bodies to the detriment of the population it serves. As a result, we now have a service that allows the strip-searching of women and girls by male officers, and forces female officers to strip-search males who claim they are women.

Searching is by its very essence, a deeply invasive act. It is therefore vital that this power is always exercised in a legal and proportionate manner. Where this goes wrong — as in the case of Child Q<sup>2</sup> — it has profound and lasting consequences, for both the person searched and for the reputation of the police service.

Police leaders have let down women and girls. They have let down female officers and staff. My question to them is – what on earth were you thinking?



**Police leaders have let down women and girls.  
They have let down female officers and staff.  
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thinking?**



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## EXECUTIVE SUMMARY

Since 2012 the police have accepted that members of the public may self-identify their “gender” and, if a search is required, choose the sex of the officer who will perform that search. Concerns around the worrying implications of this policy have dramatically increased now that it also applies to police officers and is not just restricted to those searches carried out in a police custody setting, but to 'stop searches' and members of the public not under arrest.

In December 2021<sup>3</sup>, the National Police Chiefs Council (NPCC) approved a policy paper<sup>4</sup> put forward by their LGBTQ+ portfolio lead Deputy Chief Constable (DCC) Vanessa Jardine<sup>5</sup> that proposed the “adoption of a consistent searching policy for transgender officers and staff across forces nationally”.

The paper proposed for the first time that officers be permitted to strip and even intimately search suspects of the opposite sex if the officer self-identified as the same “gender” as the person being searched. This was exposed by the Women’s Rights Network in April 2022. It has also since been reported by the organisation Keep Prisons Single Sex<sup>6</sup>.

### **Women’s Rights Network calls on the National Police Chiefs’ Council (NPCC) to withdraw this flawed and dangerous policy.**

The policy - which has been accepted and is now being implemented by the majority of police forces across the country - does not refer to the protected characteristic of sex<sup>7</sup>. Instead, it proposes that self-identified “gender” is used in place of sex in contravention of the Police and Criminal Evidence Act 1984 (PACE). PACE states<sup>8</sup> that searches involving the removal of more than outer clothing are required to be conducted by, and only in the presence of, an officer or staff member **of the same sex**, and out of public view.

It appears that no Equality Impact Assessment (EIA) was carried out prior to the NPCC decision. A subsequent EIA produced in September 2022 failed to consider the impact on women being searched or female police officers carrying out searches.

The policy paper made it clear that anyone who objects to being searched by a member of the opposite sex, and any officer refusing to carry out such a search, may be the subject of a hate crime or a non-crime hate incident if this is based on “discriminatory views”.

This is not a hypothetical situation. Many forces already have officers who identify as the opposite sex including West Midlands where 12 officers identified as the opposite sex when asked in February 2023.

Of the **47** forces consulted, **35** confirm they have either already implemented, or are in the process of implementing this policy.

“

There’s a culture in the police where you have to just get on and do it. If you speak out and challenge anything, then your days are numbered. We have nowhere to turn

*Female police officer*

”

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## BACKGROUND

The law governing police conduct relating to searches of members of the public is defined by Code A and Code C of the Police and Criminal Evidence Act 1984 (PACE).

Strip searches are *more thorough searches* involving the removal of more than outer clothing:

- A *strip search* involves the exposure of intimate body parts.
- An *intimate search* involves the examination of bodily orifices (with the exception of the mouth). Specifically, these orifices include the vagina and the anus.

Changes to the provisions of Code C of PACE were explored in June 2021, via Freedom of Information Act requests (Fols) made by the Standing for Women group to all UK police forces and NHS Trusts in England and Wales. Findings were shared in a report<sup>9</sup> that covered intimate searches made **while under arrest**, *within* custody and NHS settings (where these searches are often conducted).

These Fols highlighted a change to Code C permitting:

- any member of the public to self-identify their “gender” and be searched by an officer of the sex of their choice.

There are worrying implications of this policy for police officers dealing with members of the public who identify as the opposite sex:

- Female police officers are required to perform intimate searches on males who identify as the opposite sex. This compromises the dignity of female officers and places them in a position tantamount to employer-coerced sexual harassment, because female officers may face disciplinary action if they refuse to intimately inspect a male body.
- Male police officers required to perform intimate searches on females who identify as the opposite sex could be open to charges of sexual assault.

Searches carried out **prior to** potential arrest, usually referred to as “stop searches” and governed by Code A, were at this point still subject to being of the “same sex” if they went beyond the removal of more than outer clothing.

In October 2021, we wrote to the National Police Chiefs’ Council, the College of Policing and the Police Federation – the staff association body representing officers of Constable, Sergeant and Inspector rank (the officers who would be making such searches) – across England and Wales<sup>10</sup> for their view on this risk to their members.

No response was received from the Police Federation.



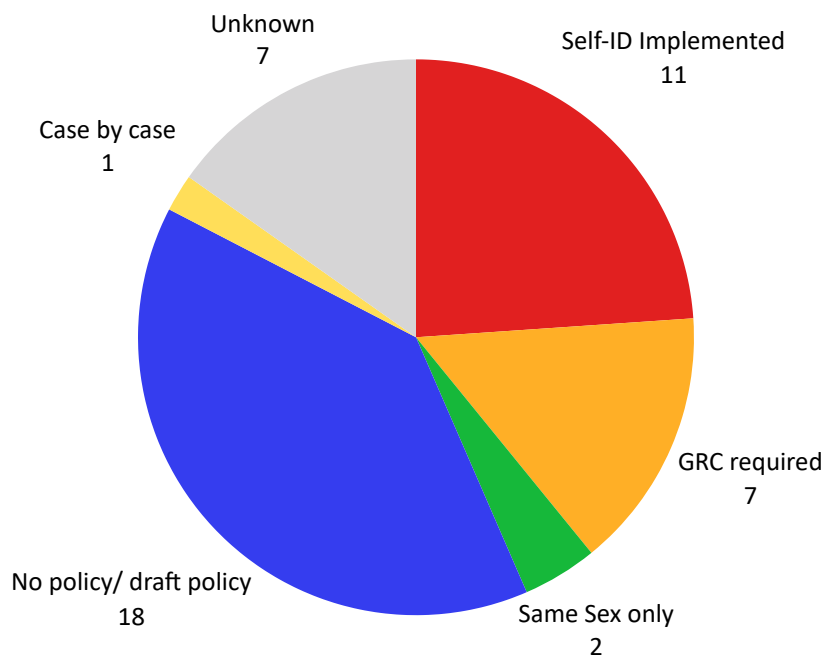
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## NPCC Policy Proposal: Searching by Transgender Officers and Staff

In December 2021, a meeting of the National Police Chiefs' Council (NPCC) considered a policy proposal<sup>11</sup> put forward by the then Deputy Chief Constable of West Midlands police, Vanessa Jardine.

The intention of DCC Jardine's proposal was to ensure the "adoption of a consistent searching policy for transgender officers and staff across forces nationally", and highlight the fact that forces had no consistency in how they were operating, which created a potential but unidentified risk<sup>12</sup>. The proposal stated that:

- 11 forces permitted searching on the basis of lived gender [sic];
- 18 forces had no policy or a draft policy;
- 7 forces required an individual to possess a GRC before being allowed to search in accordance with their lived gender [sic];
- 1 force decided on a case-by-case basis;
- 2 forces did not permit transgender employees to conduct strip searches and had only cisgender [sic] employees perform them



Search policies before new proposals  
(number of forces)

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The minutes of that meeting<sup>13</sup> in December 2021 record the decision of the police chiefs to support DCC Jardine’s proposal, which Women’s Right Network consider to be:

- Ideological in nature, using terms such as “lived gender”, “cisgender”, “gender identity”, “agender”, “gender fluid” and “non binary”. None of these terms was defined.
- Not compliant with the Equality Act 2010 and associated Public Sector Equality Duty.
- Likely to leave officers open to a charge of sexual assault because PACE stipulates that strip and intimate searching must only be carried out by an officer of the “same sex”.

Women’s Rights Network began to alert the public to the dangers of the policy proposal via social media channels in April 2022. It was also reported extensively in the Daily Mail on April 9, 2022<sup>14</sup> and followed up by other media outlets including the Telegraph<sup>15</sup>, Daily Express<sup>16</sup>, Mirror<sup>17</sup> and LBC radio on April 10<sup>18</sup>.

This was followed up with Fols and correspondence from members of Women’s Rights Network to determine the extent to which each force had implemented this new policy.

A summary of each force response can be found in Appendix B, along with some of the more notable force responses.

“It is considered highly unlikely that a person being searched would be distressed by an officer's/staff's gender presentation.

— *Dorset Police*

Misgendering and deadnaming is offensive, it is inappropriate and it can be constituted as a recordable hate incident.

— *Leicestershire Police*



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## Implementation of policy: status by police force

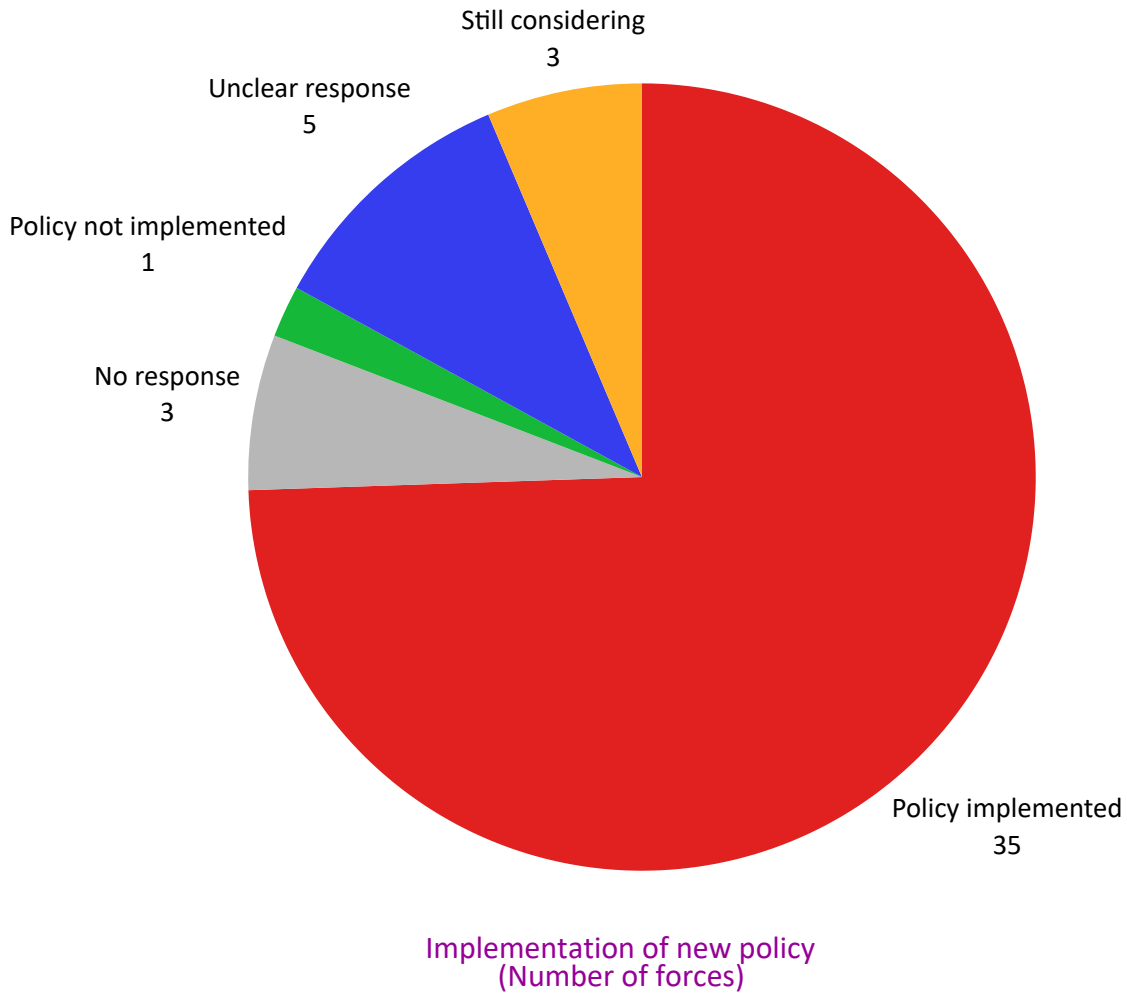
Police force	Policy implemented	Under consideration	Response unclear	Policy not implemented	No response
<u>Avon and Somerset</u>	X				
<u>Bedfordshire</u>	X				
<u>British Transport Police</u>	X				
<u>Cambridgeshire</u>	X				
<u>Cheshire</u>	X				
<u>City of London</u>	X				
<u>Cleveland</u>	X				
<u>Cumbria</u>	X				
<u>Derbyshire</u>	X				
<u>Devon and Cornwall</u>	X				
<u>Dorset</u>	X				
<u>Durham</u>	X				
<u>Dyfed Powys</u>					X
<u>Essex</u>	X				
<u>Gloucestershire</u>	X				
<u>Greater Manchester</u>		X			
<u>Gwent</u>			X		
<u>Hampshire</u>	X				
<u>Hertfordshire</u>					X
<u>Humberside</u>		X			
<u>Kent</u>	X				
<u>Lancashire</u>	X				
<u>Leicestershire</u>			X		
<u>Lincolnshire</u>	X				
<u>Merseyside</u>	X				
<u>Metropolitan (London)</u>		X			

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Police force	Policy implemented	Under consideration	Response unclear	Policy not implemented	No response
<u>Norfolk</u>	X				
<u>Northamptonshire</u>	X				
<u>Northumbria</u>	X				
<u>North Yorkshire</u>	X				
<u>North Wales</u>	X				
<u>Nottinghamshire</u>			X		
<u>Police Scotland</u>	X		X		
<u>PSNI (Northern Ireland)</u>				X	
<u>South Wales</u>	X				
<u>Staffordshire</u>	X				
<u>South Yorkshire</u>	X				
<u>Suffolk</u>	X				
<u>Surrey</u>	X				
<u>Sussex</u>					X
<u>Thames Valley</u>	X				
<u>Warwickshire</u>	X				
<u>West Mercia</u>	X				
<u>West Midlands</u>	X				
<u>West Yorkshire</u>	X				
<u>Wiltshire</u>			X		

The category “Policy implemented” includes forces confirming that implementation has been approved but not yet implemented at time of response. The data is from late 2022 onwards (when the communications and Fols were answered). We do not know implementation schedules, but all the forces in this category stated that they planned to implement the policy. See individual force responses for specific detail.

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“

What am I supposed to do? I can't just say no and end up losing the career I worked so hard for, my income and potentially my home too. They know we have no choice

*Female police officer*

”

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## WHAT THE RESPONSES REVEAL

Force responses to the Women's Rights Network's correspondence and Fols revealed:

- Prior to acceptance of the policy, the NPCC failed to consider their Public Sector Equality Duties nor did they carry out any Equality Impact Assessment (EIA) on protected characteristic groups – specifically Sex, Race, Religion/Belief, Age and Disability.
- Prior to subsequent implementation by each force, there was evidence of missing or inadequate EIAs. Most EIAs were drawn up at a later date, and none properly assessed all of the protected characteristics.
- A generic EIA<sup>19</sup> that failed to properly assess the protected characteristics was completed on behalf of the College of Policing in September 2022, some 10 months after the policy was agreed.
- Lack of any external consultations with women's groups.
- Lack of consultation with internal networks for consultation with female officers/staff, particularly those who may be termed "gender critical" or "sex realist". However, internal LGBTQ+ groups had been consulted in several forces after the decision to approve the policy was made.
- Disregard for the impact on female officers and staff, and no consideration that they may object to being asked to strip search males, and similarly for male officers and staff.
- Inadequate appreciation of the distress women were likely to experience as a result of being searched by a male, and compounded if they were criminalised because of their objection /distress.
- Evident willingness to disregard legislation that opposite-sex searching is likely to be unlawful. In the case of Norfolk and Suffolk their own legal advice highlighting that opposite-sex searching is likely to be unlawful was ignored<sup>20</sup>.
- A clear lack of knowledge, or misunderstanding, of the Equality Act 2010, specifically a repeated conflation of "gender" with the protected characteristic of Sex.
- An erroneous belief that the Gender Recognition Act 2004 makes it unlawful to request sight of a Gender Recognition Certificate.
- Clear capture of policing as a whole, and at the very highest level, by extreme gender ideology activists advocating for self-ID contrary to current UK legislation. This is evident not only in the policy proposal itself, but also in the very loaded terminology that permeated replies and internal documents.
- The overall objective of a consistent approach by forces had clearly not been achieved.

Despite these extensive issues, the policy was accepted for implementation by almost all police forces. However, it is also apparent that several forces have not committed to an implementation date (e.g. Metropolitan Police and Greater Manchester) and the position is extremely unclear in others.

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## RECOMMENDATIONS

Public trust in policing is low and declining,<sup>21</sup> as we have seen with the Casey review<sup>22</sup> which highlighted “institutional racism, sexism and homophobia” in the Metropolitan Police Service. In addition, there are specific concerns around police culture and women’s safety that the Angiolini Inquiry part 2 has been commissioned to investigate<sup>23</sup>.

This policy around strip searches will lead to further erosion in public trust because it removes vital single-sex safeguarding provisions.

Women’s Rights Network (WRN) calls upon the policing service, the National Police Chiefs Council (NPCC) and every Chief Constable to:

1. Stop the implementation of the NPCC transgender search guidance.
2. Reverse any steps already taken to implement it.
3. Ensure searching practices comply entirely with legislation, specifically with regard to sex.

Furthermore, we recommend that the NPCC:

4. Reviews and amends the Police and Criminal Evidence Act 1984 (PACE) Code C Annex L to ensure it complies with the Equality Act 2010 single-sex exemptions<sup>24</sup>.
5. Makes public the previous legal advice on the guidance, referred to in the NPCC policy paper, in the interests of transparency and accountability.
6. Ensures that every force includes sex-realist women’s groups in their Independent Advisory Groups to ensure appropriate scrutiny of stop-search and its impact on women.
7. Ensures that all internal policies and training are compliant with the Equality Act 2010 and the Gender Recognition Act 2004.



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## APPENDIX A - WRN MEMBER CORRESPONDENCE AND FREEDOM OF INFORMATION REQUESTS

The data for this report was collected in several phases consisting of direct communication with forces and FoI requests between summer 2022 and winter 2023. The questions asked are listed here.

**In the summer of 2022, WRN members wrote directly to the Chief Constables of all 46 forces and asked<sup>25</sup>:**

1. Does this force intend to fully implement the searching policy as agreed by the NPCC on 9th December 2021 and if so, by which date will this be in place?
2. What Equality Impact Assessments (EIAs) have / will be carried out in advance of implementation with regard to other protected characteristics under the Equality Act 2010, in particular, Race, Religion or Belief, Sex, and Disability?
3. Advise in detail what impact you envisage this will have on women's trust and confidence in the Police and what mitigation you intend to put in place.
4. Advise in detail whether a hate crime or a non-crime hate incident would be created under any circumstances if a woman objects to a male officer searching her and what these circumstances may be.
5. Advise in detail what your position will be with regard to female police officers being required to strip search males self-identifying as women and in particular, if you would support those officers having a right to refuse to carry out such searches.
6. If you do not intend to fully implement the searching policy, please advise in detail what the position of this force will be.

“

*It's been depressing watching the police service that I love just being destroyed from within by its own leadership. How on earth did they agree to this? It's immoral and illegal. I don't want to be part of that*

*Female police officer*

”



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**In August 2022, the Children of Transitioners group asked the NPCC for the following information:<sup>26</sup>**

I understand that NPCC has recently produced “recommended guidance for searching by trans employees of the police force”.

Please advise

1. The date this guidance was recommended by the NPCC.
2. The EIA. If none was done, please advise.
3. Whether it is up to individual forces to adopt.
4. The process / date by which the guidance will be adopted by individual police forces.
5. The date when you expect the guidance to come into force by police forces that adopt it.

**In addition, the Children of Transitioners group asked several forces for the following information:<sup>27</sup>**

1. Does your force intend to enact the NPCC guidance and allow male officers to carry out searches on female suspects if the officer identifies as a woman? If so
2. Will this be on a case by case basis, in which case what are the criteria?
3. Have you taken legal advice on whether this is legal, and how this is impacted by the Equality Act- if so, please share it.

## **Impact on female suspects:**

4. Please share your guidance on how the force will respect the beliefs of suspects who do not believe male officers are women, even if a male officer identifies as such? (If none/ not considered, please advise).
5. Many female suspects will experience any intimate search by a male officer to be degrading and sexual assault, whatever the belief in gender identity of the male officer concerned.

This will include women of other faiths (Muslim, Christian, rape victims, biologists). Please therefore advise what consideration has been given to the trauma caused to women who do not believe a male officer can ever change sex, whether the force has carried out a risk assessment, and whether your insurers have consented to male officers carrying out intimate searches on women? Please provide your guidance/policy on this, or if none/ not considered, please advise.

6. Whether female suspects will be given the opportunity to request female same sex searches only? Please provide your guidance/policy on this, or if none/ not considered, please advise.

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7. Will you be recording female suspects who object to male searches (by a male officer who identifies as female) as having committed a hate crime or hate incident? Please provide your guidance on this, or if none/ not considered, please advise.

8. What consultation has the force undertaken with women's groups about this policy, and how does this demonstrate intimate searches by male officers who believe in gender will improve the trust of women in the police, which at present is rock bottom? If no consultation with women's groups has been undertaken, please advise.

## **Impact on female Officers**

9. Please advise if female police officers will be required to carry out opposite sex searches on male suspects who identify as female. This will impact on female officers and may impact on the effectiveness of the search. Please attach your guidance regarding this, or if none/ no consideration has been given to these issues, please advise.

10. The police are currently encouraging applications from minority groups to create a more diverse workforce. Please confirm whether HR are advising female recruits they may be required to carry out intimate searches on male suspects who say they are transgender? If not, why not?

11. What specific consideration has been given to existing female officers who due to their own beliefs are unable to consent? (Muslim, Christian, victims of assault, biology believers). If none, please advise. Will they face internal disciplinarys? Given the involvement of Stonewall, does the force have any specific policy to protect female junior officers who believe sex is immutable, from discrimination by senior officers who believe in gender? Please provide the guidance, or if has not been considered, please advise.

“

*Strip searching is very personal, and it can be really humiliating too. Everything is on show, everything is exposed. For the life of me, I can't work out why we would want to make this even more humiliating and degrading for women*

*Female police officer*

”



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**In autumn 2022, a WRN member submitted a supplementary FoI request to each force that had not responded clearly to previous requests. These asked:**

1. Has this Constabulary implemented the policy – “Searching by Transgender Officers and Staff”?
2. Confirmation date of implementation.
3. If not already implemented, does this Constabulary intend to introduce this policy?
4. If so, on what date is the Constabulary aiming that the policy be introduced?
5. Confirm the creation of the Constabulary’s amended policy for “Searching by Transgender Officers and Staff” and date created and means of communication to staff.
6. How this policy has / will be conveyed to the public in accordance with fundamental statutory duties. Specify means of consultation and date/s.
7. What internal training to staff has / will be undertaken. Specify who wrote the training, in-house or name of out-sourced organisation, numbers to date of staff trained and date.
8. In advance of implementing this policy what analysis has been carried out with regard to the impact of this policy on members of the public in, for example specifically regarding risk assessment and legal rights with regard to the Equality Act 2010 Protected Characteristics of Age, Disability, Gender Reassignment, Pregnancy, Race, Religion or Belief, Sex & Sexual Orientation?
9. Provide copies of consultation work with external groups and confirm the details of the groups, names of organisations, charities, interest groups with date / dates.
10. Confirm if an Equality Impact Assessment has been carried out with regard to this policy change and what groups / protected characteristics were considered with regard to the EIA.
11. If so, confirm the date of the Equality Impact Assessment being completed.
12. Provide a copy of the Equality Impact Assessment.
13. Confirm if this Constabulary has obtained its own separate legal advice in respect of the implementation of this policy and on what date that was obtained.

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**Between July and November 2023, a WRN Member submitted additional FOI requests<sup>28</sup> to each force that had not responded clearly to previous requests. These asked:**

1. Confirmation of whether or not you have adopted the NPCC guidance, approved Dec 2021, on transgender officers being able to strip search members of the opposite sex.
2. If not yet adopted, the date you anticipate it will be implemented by.
3. What consultation (specifying which groups) has been carried out as part of the (potential) implementation process.
4. Date and copy of any Equality Impact Assessment carried out as part of this process.
5. Copy of your transgender staff / search policy.
6. Confirm what your policy will be with regard to any person objecting to a strip search by an officer who they believe is of the opposite sex – confirm whether this will be recorded as a hate crime / non-crime hate incident.
7. Confirm what your policy will be with regard to female officers / staff being required to strip search natal males, and whether you will support them not having to carry out these as part of their duties where the individual requires a female officer / staff.

For clarity, I require this information in respect of:

- A. Searches outside of the formal custody office setting, usually referred to as “street searches” and
- B. Searches in the formal custody office setting.

“

**I look to leaders for courage and for guidance  
and this has shaken my faith in the NPCC and  
senior management to the core**

*Female police officer*

”

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## APPENDIX B – FORCE RESPONSES

### Some of the more notable responses:

**Avon and Somerset** – while a woman objecting to a search would find herself having a crime recorded if her refusal was deemed to be based on “*discriminatory views*”, a person identifying as undergoing gender reassignment or in the process of “*transitioning*” would be asked “*which gender they feel most comfortable being searched by*”.

Female officers being required to strip search male members of the public, were part of a “*professional service and will sometimes be required to carry out necessary duties that they find uncomfortable*”.

**Cheshire** – implemented the policy the same month it was agreed and claimed that an EIA had been completed prior to this implementation, but failed to provide any copy of this EIA.

**Devon and Cornwall** - confirmed that they had implemented the NPCC guidance by 18 November 2022, but were still reviewing the process and associated EIA.

**Dorset** – was one of several forces that misunderstood the law in respect of the Gender Recognition Act 2004, stating that “*under no circumstances should a trans person be asked to provide any ‘proof’ (GRC, birth certificate, etc) as regards their gender as this will be a breach of the law*”.

**Durham** – had implemented the policy but not considered an EIA as it did not currently have “*any transgender officers to assess any policy against*”. EIAs and the Public Sector Equality Duty must consider the impact of a policy on all nine of the protected characteristics.

**Essex** – this force stated that it had consulted with its Independent Advisory Group with regard to the changes to the stop and search policy. However, this predated the introduction of the NPCC policy proposal. It was dated February 2021, prior to the policy agreement (December 2021) and its introduction in Essex (in 2022).

**Gloucestershire** – provided definitions of terminology to assist their staff, including a definition of “*Intersex*” as those who have “*reproductive features and anatomy that contrary to commonly defining binary’s [sic] that resembles a mix of both male and female genitalia*”.

**Leicestershire** – displayed a sensitivity and concern towards any “*trans or non-binary detainee*” in custody, being asked what “*gendered officer/staff*” they would prefer to be searched by. However, this was not extended to any other detainee, who would instead be challenged if they raised any concern to the officer searching them: “*If the detainee objects to being searched by an officer/staff member, based on the detainee’s perception that the officer is trans, then this should be challenged, and if the circumstances amount to it, then the incident is to be recorded as a hate incident*”. Any such person would also be questioned in a police interview.

**Norfolk and Suffolk** – the advice of a “*volunteer barrister*” had been sought prior to the NPCC policy, who commented that “*a person searched by an officer of the opposite sex (regardless of gender) would have a legitimate complaint under Article 8 HRA and under the harassment provisions of the Equality Act 2010*”.

Furthermore, the stop search policy was amended prior to the new policy to permit opposite sex strip searching on 14 November 2019, but the existing EIA was not reviewed<sup>29</sup>. The stop search EIA was not completed until 7 July 2020.

**Northamptonshire**<sup>30</sup> – with regard to any objections that a female officer may make to strip-searching a male, they said that this will then be “*risk assessed by the designated supervisor or custody officer*” and that “*we have yet to have a female officer object to doing this solely based on the grounds of gender*”.

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## SUMMARISED FORCE RESPONSES

Avon and Somerset

Bedfordshire

British Transport Police

Cambridgeshire

Cheshire

City of London

Cleveland

Cumbria

Derbyshire

Devon and Cornwall

Dorset

Durham

Dyfed Powys

Essex

Gloucestershire

Greater Manchester

Gwent

Hampshire

Hertfordshire

Humberside

Kent

Lancashire

Leicestershire

Lincolnshire

Merseyside

Metropolitan police

Norfolk

North Yorkshire

North Wales

Northamptonshire

Northumbria

Nottinghamshire

Police Scotland

PSNI

South Wales

South Yorkshire

Staffordshire

Suffolk

Surrey

Sussex

Thames Valley

Warwickshire

West Mercia

West Midlands

West Yorkshire

Wiltshire

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## APPENDIX C – LETTER TO CHAIR OF THE POLICE FEDERATION

Letter from report author Cathy Larkman to John Apter highlighting the risk to serving police officers of requiring them to perform opposite-sex searches contrary to PACE.

Re: Stop Search and interpretation of Code A PACE 1984

Dear Mr Apter

I am writing to you in your position as Chair of the Police Federation of England & Wales concerning an issue that will increasingly affect rank-and-file officers across the UK, and which I believe, requires immediate review and attention by the National Police Chief's Council, and by the College of Policing. Without urgent clarification of this issue I believe that Police Officers carrying out searches in accordance with Code A of PACE, where such searches are directed to take place by an officer of the "same sex" as the person being searched, may leave themselves open to allegations of sexual assault and / or of breaches of PACE.

I have attached for your reference, a copy of my letter to the Chair of the National Police Chief's Council. As you will note, I am a recently serving police officer and was formerly also a Federation representative (at Inspector level). My intention in sending this correspondence is to prevent further escalation of an issue of public concern, and also to protect Police officers who are carrying out a difficult role and deserve absolute clarity of direction.

I believe that these matters are particularly important now in light of the horrific details that have emerged following the murder of Sarah Everard and the attendant lack of public trust and confidence towards male police officers in particular.

I will leave you to study the attached letter and to consider your stance on this for current serving officers. However, in summary my concerns and request for direction relate to:

- clarity of the interpretation of "same sex" where specified for PACE, that this relates to same biological sex and not assumed gender identity.
- the rights of women to be searched by an officer of the same biological sex and not of the same assumed gender (with or without a gender recognition certificate).
- clear direction and understanding for both male, but particularly female officers, as to who they may be compelled to search where "same sex" applies, to ensure their own dignity and rights.

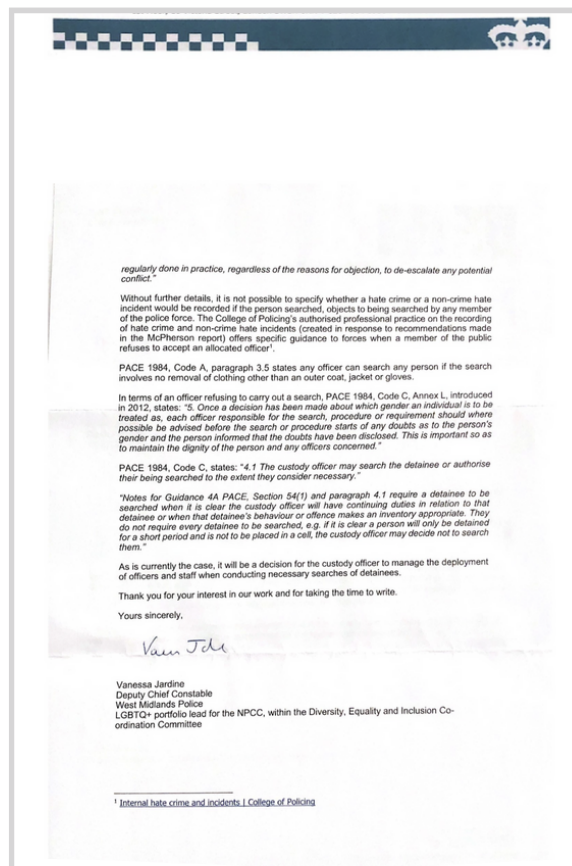
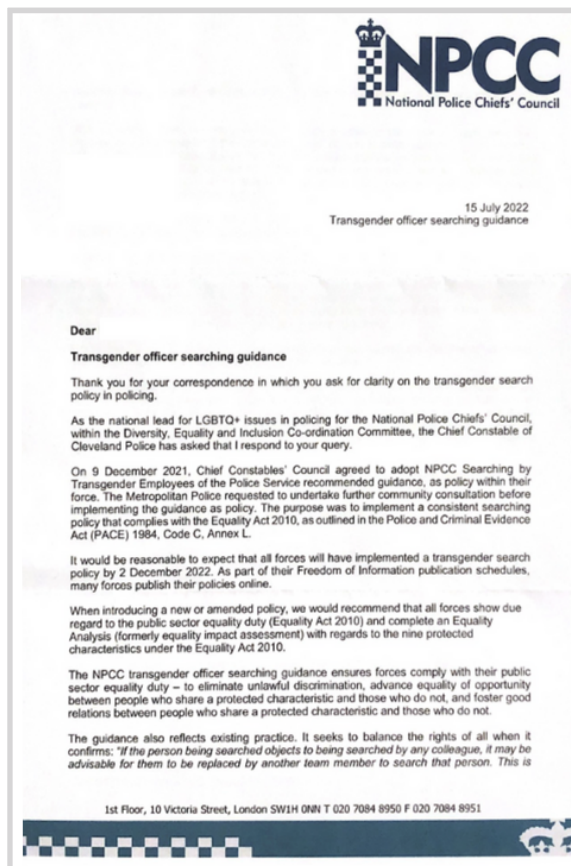
I look forward to hearing from you and receiving the Federation's clear and unequivocal stance on these questions.

Yours sincerely,

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## APPENDIX D – DCC VANESSA JARDINE’S LETTER

DCC Vanessa Jardine is the LGBTQ+ lead for the NPCC. Her generic letter in response to concerns raised by members of the public confirms the scope and rationale of the policy agreed by the NPCC. She also confirms that the policy allowing gender self-identification by members of the public (after arrest and within custody setting) has been followed since 2012.



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## APPENDIX E – NPCC POLICY PROPOSAL

This is the proposal presented and approved by the NPCC in December in 2021 and implemented by the majority of forces.

### Searching by Transgender Officers and Staff

#### 1. INTRODUCTION / PURPOSE OF PAPER

1.1 This purpose of this paper is to propose adoption of a consistent searching policy for transgender officers and staff across forces nationally. There is currently an inconsistent application of the relevant policies which leaves police forces vulnerable to criticism and open to legal challenges. With police forces aiming to become more inclusive in terms of their officers and staff, it is timely to initiate the discussion with Chief Constables.

1.2 Guidance was previously issued by Deputy Chief Constable Julie Cooke (previous NPCC LGBT+ Lead) on 10 September 2021.

1.3 This paper will also provide Chief Officers with an overview of the current national position and seek support from forces to commit to introduce and apply specific guidance for the deployment of their transgender employees in searching duties. The Police and Criminal Evidence Act 1984, Note L5 from Annex L, CODE C states:

*Chief Officers are responsible for providing corresponding operational guidance and instructions for the deployment of transgender officers and staff under their direction and control to duties which involve carrying out, or being present at, searches and procedures. The guidance and instructions must comply with the Equality Act 2010.*

#### 2. BACKGROUND

2.1 Individuals are not required to possess a Gender Recognition Certificate (GRC) to have the protected characteristic of gender reassignment (as per the Equality Act 2010). Who transgender colleagues may search, in line with their legal authority and training (as a police officer, or powers conferred or designated under s38 or s39 of the Police Reform Act 2002), is determined by an interaction between PACE 1984 and the Equality Act 2010 and not limited to the provisions of the Gender Recognition Act 2004.

2.2 Annex L, Code C of PACE was introduced in July 2012. Research indicates that as of December 2020 there is a clear variance of approach across forces, outlined below:

- 11 forces permitted searching on the basis of lived gender.
- 18 forces had no policy or a draft policy.
- 7 forces required an individual to possess a GRC before being allowed to search in accordance with their lived gender.
- 1 force decided on a case by case basis.
- 2 forces did not permit transgender employees to conduct strip searches and have only cisgender employees perform them.

2.3 The current arrangement leaves policing in a position whereby forces are adopting different policies; with the inconsistent approach creating potential risk.

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## 3. PROPOSAL

3.1 Adopt the policy outlined in Appendix A, which recommends a case by case approach led by the employee and that also takes into account the detainee's response. Thus, protections provided on the basis of gender reassignment and sex are balanced. This provides forces nationally, and individuals, clarity and consistency of approach.

3.2 Chief Officers are advised to recognise the status of Transgender colleagues from the moment they transition, considered to be, the point at which they present in the gender with which they identify. Thus, once a Transgender colleague has transitioned, they will search persons of the same gender as their own lived gender.

3.3 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. This is regularly done in practice, regardless of the reasons for objection, to de-escalate any potential conflict. If such a decision must be made, it is essential to support the affected colleague and consider the adverse impact on other colleagues.

3.4 The reason for a case by case basis is that it is recognised that some colleagues may have a gender identity that does not easily fit with the binary regime contemplated when PACE 1984 was enacted, for example non binary, gender fluid or agender. A discussion may be necessary with such a colleague to establish how they can participate in conducting searches.

3.5 Any policy could be subject of legal challenge however the recommended guidance has been reviewed by external counsel and who advised that the guidance is robust, sensible, practical and defensible (Appendix B).

3.6 Following the guidance allows forces to meet obligations under the Equality Act 2010 while complying with the Police and Criminal Evidence Act 1984.

3.7 It removes a potential employment barrier for transgender individuals to consider the Police Service as an employer of choice for transgender individuals.

3.8 Taking further active steps to increase inclusivity should increase trust and confidence in the police.

3.9 If you have any questions please contact me via [ET\\_NATIONAL\\_LGBTLEAD@west-midlands.pnn.police.uk](mailto:ET_NATIONAL_LGBTLEAD@west-midlands.pnn.police.uk)

## 4. CONCLUSION

4.1 There is a need for a standardised searching policy for transgender officers for police forces.

## 5. DECISIONS REQUIRED

6. Approve the recommendation to adopt a consistent searching policy for transgender officers and staff across all forces.

“

**This is making officers complicit in abuse**

*Female police officer*

”



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## APPENDIX F – RECOMMENDED GUIDANCE SEARCHING BY TRANSGENDER OFFICERS AND STAFF

This guidance accompanies the proposal in Appendix E.

### Appendix A: Recommended Guidance: Searching by Transgender Employees of the Police Service

*[The terms used in this guidance are reflective of the language used in the Equality Act 2010, Annex L, Code C of the Police and Criminal Evidence Act (1984) and case law.]*

#### Introduction

This guidance relates to determining whom a Transgender officer or staff member (including those who identify as non-binary) may search, in relation to:

- Code C; paragraph 4.1 and Annex A paragraphs 5, 6, and 11 (searches, strip and intimate searches of detainees under sections 54 and 55 of PACE);
- Code A; paragraph 3.6 and Note 4 in stop and search scenarios (Any search involving the removal of more than an outer coat, jacket, gloves, headgear or footwear, or any other item concealing identity, may only be made by an officer of the same sex as the person searched and may not be made in the presence of anyone of the opposite sex unless the person being searched specifically requests it);
- Code D; paragraph 5.5 and Note 5F (searches, examinations and photographing of detainees under section 54A of PACE) and paragraph 6.9 (taking samples);
- Code H; paragraph 4.1 and Annex A paragraphs 6, 7 and 12 (searches, strip and intimate searches under sections 54 and 55 of PACE of persons arrested under section 41 of the Terrorism Act 2000).

#### Background

Note L5 from Annex L, CODE C, Police and Criminal Evidence Act 1984 (PACE), provides statutory guidance in relation to searching by transgender police officers, police staff and special constables (henceforth described as transgender colleagues) as follows:

*L5 Chief officers are responsible for providing corresponding operational guidance and instructions for the deployment of transgender officers and staff under their direction and control to duties which involve carrying out, or being present at, any of the searches and procedures described in **paragraph 1**. The guidance and instructions must comply with the Equality Act 2010 and should therefore complement the approach in this Annex.*

#### Guidance

Who transgender colleagues may search, in line with their legal authority and training (as a police officer, or powers conferred or designated under s38 or s39 of the Police Reform Act 2002), is determined by an interaction between the Police and Criminal Evidence Act (1984), and the Equality Act (2010), with the correct application of occupational requirement, and not limited to the provisions of the Gender Recognition Act (GRA) (2004).

Employers should treat people in accordance with their lived gender identity, whether or not they have a GRC, and should not ask Transgender colleagues if they have a GRC or new birth certificate.

Accordingly, with regards to the issue of searching, Chief Officers are advised to recognise the status of Transgender colleagues from the moment they transition, considered to be, **the point at which they present in the gender with which they identify.**

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**Thus, once a Transgender colleague has transitioned, they will search persons of the same gender as their own lived gender.**

It is recognised that some colleagues may have a gender identity that does not easily fit with the binary regime contemplated when PACE 1984 was enacted, for example non-binary, gender fluid or agender. A discussion may be necessary with such a colleague to establish how they can participate in conducting searches. That conversation will be held sensitively (at a suitably senior level) and before the colleague is put in a position where they may be required to participate in searches.

## **Considerations around welfare of staff**

If a colleague has made the decision to transition, they should be given the option of being exempt from conducting searches. This decision should be reviewable over the course of an individual's transition. This ensures compliance with Section 2 (2) (e) of the Health & Safety at Work Act (1974)

In these circumstances and with their consent, the colleague should be advised there may be circumstances when their supervisor may inform others of any restrictions on their operational capabilities.

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. This is regularly done in practice, regardless of the reasons for objection, to de-escalate any potential conflict. If such a decision must be made, it is essential to support the affected colleague and consider the adverse impact on other colleagues.

If the refusal is based on discriminatory views, consideration should be given for the incident be recorded as a non-crime hate incident unless the circumstances amount to a recordable crime. This is in accordance with the College of Policing's Authorised Professional Practice on internal hate crime and incidents.

“

It's been depressing watching the police service that I love just being destroyed from within by its own leadership. How on earth did they agree to this? It's immoral and illegal. I don't want to be part of that

*Female police officer*

”

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## APPENDIX G – STOP SEARCH: THE LEGISLATION

Stop searches (those searches carried out when a person is not in custody, or under arrest) are governed by Code A of the Police and Criminal Evidence Act 1984 (PACE).

They can be more easily understood as follows:

- A **basic search** where no more than outer clothing is required to be removed. Outer clothing is defined as a jacket, outer coat and gloves and the extent of the search is restricted to a superficial examination of clothing, which also includes the hair, collar and socks. There is no prohibition on these being carried out publicly and neither is there any prohibition on opposite-sex searching taking place, albeit male officers tend to request female officers anyway, and vice versa. Many forces also mandate the use of body-worn video for these searches.
- A **more thorough search** which involves more than the removal of these items of clothing, must take place out of public view. That place can be a police van. Code A states that this type of search must be carried out by an officer of the same sex. No person of the opposite sex is to be present, unless explicitly requested by the person being searched.
- A **strip search**, which involves the exposure of intimate parts of the body. This type of search must be conducted out of public view (and not in a police vehicle). Again, Code A states that these must be by an officer of the same-sex and should not be seen by a member of the opposite sex. No person of the opposite sex should be present, unless explicitly requested.

Additional provisions exist for children, which include the presence of an “appropriate adult” being required.

Searches carried out after arrest, while a person is in custody are governed by Code C of PACE. These additionally may include an intimate search which involves the search of bodily orifices (other than the mouth).

However, there is an Annex L to Code C dating from July 2012. This talks about “establishing gender” for the purposes of being searched. It focuses very much on the person being searched, not how the officer doing the searching may “identify”.

Annex L introduces to PACE the terms “gender”, “acquired gender” and “predominant lifestyle”, but distinguishes between transgender individuals and transvestites. It includes discretion for officers to decide that a person is not living as their acquired gender and to resort to a same-sex search, specifying incorrectly that you cannot ask if a person holds a Gender Recognition Certificate.

In general Code A covers those searches usually referred to as “stop searches”, prior to any potential arrest, while Code C covers those searches carried out in the custody setting, when already under arrest.

[PACE Code A \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk)

[Pace Code C \(Revised\) \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk)

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## FOOTNOTES

1. <https://www.legislation.gov.uk/ukpga/2002/30/notes/division/4/1/18/2?view=plain>
2. <https://www.bbc.co.uk/news/uk-england-london-66809168>
3. [https://npcc.police.uk/2022/Dec 21.pdf](https://npcc.police.uk/2022/Dec%2021.pdf) (page 31)
4. Appendix E – Searching by Transgender Officers and Staff
5. At the time the policy was proposed, Vanessa Jardine was Deputy Chief Constable for West Midlands Police. She has since been promoted to Chief Constable of Northumbria Police
6. <https://kpsinfo.org/searching-by-police-forces/>
7. <https://www.legislation.gov.uk/ukpga/2010/15/part/2/chapter/1>
8. Appendix G – Stop Search: the legislation
9. <https://www.standingforwomen.com/nhs-and-police-report>
10. Letters were sent to Chief Constables Hewitt (then the Chair of the National Police Chiefs Council), Chief Constable Andy Marsh the CEO of the College of Policing, and Mr John Apter, then the Chair of the Police Federation of England and Wales
11. Appendices E and F
12. This is believed to refer to a legal risk
13. <https://npcc.police.uk/2022/Dec%2021.pdf>
14. <https://www.dailymail.co.uk/news/article-10703327/Women-strip-searched-trans-officers-born-male-say-police.html>
15. <https://www.telegraph.co.uk/news/2022/04/10/transgender-police-officers-born-male-permitted-strip-search/>
16. <https://www.express.co.uk/news/uk/1594248/trans-police-officers-women-police-womens-rights-network-news-latest>
17. <https://www.mirror.co.uk/news/uk-news/women-can-strip-searched-transgender-26680180>
18. <https://www.lbc.co.uk/news/trans-police-officers-who-were-born-male-but-identify-as-female-can-search-women>
19. <https://www.whatdotheyknow.com/request/900364/response/2170767/attach/html/5/320%2022%20Equality%20Assessment%20v1.0.pdf.html>
20. [https://www.whatdotheyknow.com/request/transgender\\_strip\\_and\\_intimate\\_s\\_3?nocache=incoming-2393429&incoming-2393429](https://www.whatdotheyknow.com/request/transgender_strip_and_intimate_s_3?nocache=incoming-2393429&incoming-2393429)
21. <https://post.parliament.uk/approved-work-trust-in-the-police/>
22. <https://www.met.police.uk/police-forces/metropolitan-police/areas/about-us/about-the-met/bcr/baroness-casey-review/>
23. <https://www.angiolini.independent-inquiry.uk/angiolini-inquiry-terms-of-reference-for-part-2/>
24. <https://www.legislation.gov.uk/ukpga/2010/15/schedule/3/part/7>
25. Civil Nuclear Constabulary or the Ministry of Defence Police were not consulted
26. [https://www.whatdotheyknow.com/request/pace\\_same\\_sex\\_search\\_guidance#incoming-2170767](https://www.whatdotheyknow.com/request/pace_same_sex_search_guidance#incoming-2170767)
27. [https://www.whatdotheyknow.com/user/e\\_thomas\\_4](https://www.whatdotheyknow.com/user/e_thomas_4) (See "PACE same sex searches" Fols)
28. [https://www.whatdotheyknow.com/user/cat\\_allen](https://www.whatdotheyknow.com/user/cat_allen) ("Transgender strip and intimate search policy")
29. <https://www.whatdotheyknow.com/request/1001059/response/2393429/attach/html/4/000588%2023.pdf.html>
30. [https://drive.google.com/file/d/1MoN19BX4kXWWfhldULzKQmMawDc7EE1c/view?usp=drive\\_link](https://drive.google.com/file/d/1MoN19BX4kXWWfhldULzKQmMawDc7EE1c/view?usp=drive_link)

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



[WWW.WOMENSRIGHTS.NETWORK](http://WWW.WOMENSRIGHTS.NETWORK)