

Chris Philp MP
Minister for Crime, Policing and Fire
Home Office

11th January 2024

Dear Minister

We were pleased to hear you confirm to the Home Affairs Select Committee this week that the government does not support the policy of the National Police Chiefs' Council (NPCC)¹ which allows male officers who identify as women to undertake searches, including strip and intimate searches, of detainees of the opposite sex. As the recent report by the Women's Rights Network found, the majority of police forces have already or are in the process of implementing this policy.² As you rightly say, this is not "right, safe or respectful to women". Urgent action is required.

The NPCC policy should be withdrawn and police forces should be directed to adopt clear policies which guarantee that detainees will be searched by members of the same sex in all circumstances that involve more than the removal of outer clothing, in line with the Police and Criminal Evidence Act 1984 (PACE) Codes. In every case the sex of the officer must be accurately reflected in the record of the search.

We do not agree with your statement to the Home Affairs Select Committee that if a police officer has a gender-recognition certificate (GRC) they must be allowed to search detainees of the opposite sex. As you recognise, it is likely to be humiliating and frightening for a woman to be searched by a male officer. It is no different if that officer has a certificate.

The Gender Recognition Act 2004 was enacted to enable transgender people to marry persons of the same sex (at the time before same-sex marriage) and in recognition of the right to respect for private and family life (protected by Article 8 of the European Convention on Human Rights). It must be remembered that a GRC is a legal fiction which does not change reality, and it does not remove other people's rights.

In practice the ability to keep information private about whether a person is male or female is very limited. It may be highly meaningful to an individual that they identify as a "trans woman", but the fact that they are male remains salient to other people, and is likely to remain perceptible to those who meet them. It is neither practical or compatible with other people's human rights for a person to demand to keep their sex "private" where their job involves close physical contact with other people.

To illustrate, these are three police and border officers who could have searching duties under this policy. The intention of these pictures is not to suggest that these three officers (who have each publicised their trans identity) are not "genuinely trans", to impugn their individual motives or to mock their appearance. It is simply to underline that gender identity does not change, erase or conceal sex.

¹ NPCC (2021) [Searching Guidance](#)

² Women's Rights Network (2024) [State Sanctioned Sexual Assault](#)

Sex Matters is a human-rights organisation campaigning for clarity about sex in law, policy and language | sex-matters.org | info@sex-matters.org



[PC Skye Morden](#)
West Midlands Police



[SC Cherry O'Donnell](#)
East Herts Police



[Steph Calvert](#)
Border Force

The carrying out of strip searches has been found by the Strasbourg Court to engage Article 3 (freedom from torture, inhuman or degrading treatment)³ where such searches are in the presence of the opposite sex. Article 3 is an absolute right which may not be derogated from, limited or restricted in any way. Ordinary searches engage Article 8. Both police officers and detainees have a right to privacy and personal autonomy.

Recent legal cases concerning the definition of sex have confirmed that a GRC does not change a person's sex for *all* legal purposes. In the case brought by Fair Play for Women concerning the Scottish census, Lady Dorrian concluded that in "matters affecting status, or important rights, in particular the rights of others" a rigid definition of sex may be demanded.⁴

In the case brought by For Women Scotland concerning women on public boards in Scotland, Lady Haldane stated that "sex" could be interpreted as meaning biological sex in legislation where this is the purpose. She gave the example of legislation concerning police examination of rape victims which she said "can only mean, read fairly, that a victim should have access to an examiner of the same biological sex as themselves."⁵

Police officers must follow the Code of Practice for Ethical Policing.⁶ It should be recognised that misrecording the sex of any police officer is not compatible with implementing the policies that are needed to respect human rights, to maintain public trust and confidence, and to police professionally. As the NPCC Guidelines state, transgender officers might be excused from searching duties. They certainly should not be required or allowed to search suspects of the opposite sex.

Yours sincerely

Maya Forstater
Sex Matters

Heather Binning
Women's Rights Network

Nicola Williams
Fair Play for Women

³ Wieser v Austria (Case 2293/03)

⁴ Fair Play for Women v Scottish Ministers [\[2022\] CSIH 7](#)

⁵ For Women Scotland v Scottish Ministers [\[2022\] CSOH 90](#)

⁶ <https://www.college.police.uk/ethics/code-of-practice-ethical-policing>