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Author and Contributors:	Anil Mander and Richard Hampson
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Chief Constables' Council Minutes – Scottish Supreme Court Ruling and Search Guidance

8 May 2025

Attendees

AC Gavin Stephens	NPCC Chair
CC Sara Crew	Avon and Somerset
CC Trevor Rodenhurst	Bedfordshire
CC Nick Dean	Cambridgeshire
CC Mark Roberts	Cheshire
Cmsr Pete O'Doherty	City of London
CC Mark Webster	Cleveland
CC Rob Carden	Cumbria
DCC Jim Colwill	Devon and Cornwall
CC Rachel Swann	Derbyshire Constabulary
CC Amanda Pearson	Dorset
CC Rachel Bacon	Durham
CC Dr Richard Lewis	Dyfed-Powys
CC Ben-Julian Harrington	Essex

CC Maggie Blyth	Gloucestershire
CC Stephen Watson	Greater Manchester
CC Mark Hobrough	Gwent
CC Scott Chilton	Hampshire
CC Andy Prophet	Hertfordshire
CC Judi Heaton	Humberside
CC Tim Smith	Kent
DCC Peter Ayling	Kent
CC Sasha Hatchett	Lancashire
CC Rob Nixon	Leicestershire
CC Paul Gibson	Lincolnshire
CC Serena Kennedy	Merseyside
Sir Mark Rowley	Metropolitan Police Service
AC Matt Jukes	Metropolitan Police Service
AC Laurence Taylor	Metropolitan Police Service
AC Pippa Mills	Metropolitan Police Service
Cmsr Mark Rowley	Metropolitan Police Service
CC Amanda Blakeman	North Wales
CC Paul Sanford	Norfolk Constabulary
CC Ivan Balhatchet	Northamptonshire
CC Kate Meynell	Nottinghamshire
CC Vanessa Jardine	Northumbria
CC Tim Forber	North Yorkshire
CC Jo Farrell	Police Scotland
ACC Melanie Jones	Police Service for Northern Ireland
T/DCC Chris Todd	Police Service for Northern Ireland
CC James Vaughan	South Wales
CC Lauren Poultney	South Yorkshire
CC Chris Noble	Staffordshire
CC Rachel Kearton	Suffolk
CC Tim De Meyer	Surrey
CC Jo Shiner	Sussex
CC Jason Hogg	Thames Valley
CC Alex Franklin-Smith	Warwickshire
T/CC Richard Cooper	West Mercia
CC Craig Guildford	West Midlands
CC John Robins	West Yorkshire
CC Catherine Roper	Wiltshire
CC Lucy D'Orsi	British Transport Police
DCC Rachel Etebar	British Transport Police
CC Simon Chesterman	Civil Nuclear Constabulary
CEO Andy Marsh	College of Policing
Tom Harding	College of Policing
Rachel Tuffin	College of Policing

CC Melanie Dales

Ministry of Defense Police

Gp Capt Russ Foster-Jones
Col Kristian Rotchell
Col Mark Shapland
CO Damian Kitchen
CO Robin Smith
CO Russell Foster

Cmsr Ian McGrail

Royal Airforce Police
Royal Navy Police
Royal Army Police
Guernsey Police
States of Jersey Police
Isle of Man Police

Royal Gibraltar Police

The NPCC vice chair welcomed Chief Constables to the extraordinary CCC call and thanked the leads for their work and leadership on what was a complex issue to navigate.

The lead summarised the recent Scottish Supreme Court ruling which stated that sex refers to biological sex only and individuals will be treated in accordance with their birth sex. The DEI Committee had been reviewing how this ruling will apply to policing – some of the key issues were how the ruling applies to search, data recording, custody facilities/estate provisions, victim support and provision of single sex space for toilets and changing facilities. Interim guidance from the EHRC had been shared on Chiefs Net on the last issue – this was the only guidance available at present. Correspondence had been received from specific groups – including Sex Matters – and the lead asked forces to link in with the DEI Committee Coordinator around any correspondence they receive directly, and the DEI Committee will try to provide one single national response that can be used.

The lead updated on engagement that had been undertaken by the NPCC National Coordination Group which included engagement with the Home Office, Policing Minister, Equality and Human Rights Commission and BTP.

The lead updated on the high-level principles that are being taken which were:

- The need forces to take a common approach.
- Policing’s approach will be stronger if it is supported by, Home Office and the Equality and Human Rights Commission and the policing minister.
- Need to recognise key voices from LGBTQ+ (particularly the Trans community) and those with a gender critical belief (which is a protected characteristic) and to balance the needs of both groups.
- The need to provide our workforce with guidance and leadership in this area – currently staff were having to navigate a very complex area and operating on a case-by-case basis which was not appropriate or sustainable.

The lead summarised the need to get an agreement on the proposed way forward around the issue of searches – and this was to search on a biological sex basis. The lead provided an overview of the work that was ongoing to develop the strip search policy in custody and advised that legal advice is currently being prepared which will underpin the guidance in this area. The lead stressed the need for a common approach and welcomed direct contact/engagement from any forces that wished to discuss the approach in greater detail. The lead highlighted the following areas:

- Basic premise was to search as per the direction of PACE which was according to the same sex and policing will use the supreme courts definition of biological sex
- The guidance will also include how the search of a trans detainee should be conducted with biological sex being the primary decision but there can be an element of consensual search.
- The key area was the need to obtain true consent of both parties to undertake a search – both the staff member conducting the search and the person being searched. This can be done under common law. There is a two staged test to apply this common law which revolves around obtaining true consent around the manner of which the search is done. Practical guidance on this will be provided and will be underpinned by the legal advice received.
- Explicitly included in the guidance will be that staff cannot be given a lawful order to search someone under this consensual regime – BTP have some helpful ‘what if’ guidance that may assist greater understanding in this area.

It was recognised that views on the supreme court ruling were very polarised particularly on the issue of searching.

Chief Constables raised the following issues:

- Will there be separate guidance for trans officers and staff
- Will there be any clarity regarding how to understand who our trans staff are – through network engagement etc – recognising that trans communities are protected under legislation etc
- Must be clear that policing are acting in accordance with the law – whilst the law may offend some parts of the community – policing can only try and mitigate against this offence
- Be clear that it is the consent of who is performing the search and the person being searched must consent to whom carries out the search
- What about searches outside of custody – need to provide guidance in this area
- Policing are pushing hard for support from Home Office and Policing Minister on the way forward along with Equality and Human Rights Commission – consider what forces can do to help with this effort
- NPCC National Coordination Group have been engaged on this alongside representation and support from the College of Policing
- College of Policing are reviewing policy and guidance to ensure compliance with the law
- Consider if there are any other areas we should look to coordinate the approach from – including mental health partners, prison service etc to ensure consistency of approach

The lead summarised that engagement was ongoing with networks (LGBTQ+ and gender critical) and she would encourage forces to do the same with their local networks. An Equality Impact Assessment on the guidance will be undertaken also and shared. The BTP chief advised of the timescales of the BTP judicial review and advised it would be helpful to have an NPCC position in advance of that. The lead advised that an outline guidance document will be shared shortly and behind this would sit the rationale and legal argument and will include potential operational scenarios. Following discussion, it was agreed that it would be helpful to have an NPCC position statement and also a letter to the Home Secretary from the NPCC chair outlining the challenges with the current legal position and the need to review PACE.

Decision - Summary of decisions from the meeting to be shared with all chiefs confirming everyone's agreed position and understanding.

Decision - Chiefs supported the proposal of unity on updated guidance implementation.

Action - LGBTQ+ NPCC portfolio to produce an EIA for the revised guidance.

Decision - Revised Search Guidance including advice and support on consent to officers and staff, operational scenarios, based on the supreme court ruling will be shared with relevant comms messages to all forces. A copy of the EIA can be made available on

request.

Decision - Chiefs agreed one NPCC statement position to be circulated on this, for all to use.

Action - NPCC Chair will write to Home Secretary on current legal position and look for further agreement on combined approach including with the equalities commission.

Action - NPCC Chair, DEI and LGBTQ+ to write to Home Sec seeking agreement to start revision of PACE/Annex L.

Action Any correspondence received into forces to be shared with DEICC coordinator for review.