

Statement of Position in response to Supreme Court Ruling in the case of *For Women Scotland Ltd v The Scottish Ministers* [2025] UKSC 16

The Supreme Court ruling in the case of *For Women Scotland Ltd v The Scottish Ministers* [2025] UKSC 16 concluded that in the Equality Act 2020, which applies in Great Britain, ‘sex’ means biological sex.

The Equality Commission for Northern Ireland has applied for leave to the High Court for an advisory declaration to clarify how the terms “sex”, “men” and “women” should be interpreted under Northern Ireland’s equality laws and Article 2 of the Windsor Framework¹.

In the interim, it is the responsibility of the Department of Justice to ensure that the PACE NI Codes support the effective operation of police powers, including the conduct of searches and other procedures and provide appropriate safeguards for individuals detained in police custody. The Department has put in place an interim Annex L to PACE Code C (replicated in PACE Codes H and I, as Annex J and Annex H respectively) on the conduct of searches and other procedures. Annex L will be reviewed in light of the outcome of the advisory declaration sought by the Equality Commission.

Police officers are under the direction and control of the Chief Constable and the Chief Constable is responsible for providing corresponding operational guidance and instructions for officers and staff. This includes guidance relating to duties which involve carrying out, or being present at, searches and other procedures. The PSNI has adopted and put in place the National Police Chiefs’ Council (NPCC) ‘Interim

¹ [ECNI - ECNI - For Women Scotland and its implications for Northern Ireland equality law](#)

Guidance – Searching by Transgender officers and employees of the Police and the Searching of Transgender detainees’.

The Interim Guidance states that, as far as operationally viable, where an individual whose lived in gender is not the same as their biological sex expresses a preference to be searched by an officer of their lived gender, efforts will be made to ensure an appropriate officer is identified to conduct the search. This would require the consent of the detained person and the officer(s) or members of staff involved in the search. The NPCC guidance also states that there will be no career detriment to any officer or staff member who declines to conduct a search involving a transgender person, or to a transgender officer exempt from searching.