

N P C C P o l i c y – A S y s t e m s A n a l y s i s

Institutional Classification in Police Searching

A Systems Analysis of the NPCC Interim Transgender Search Guidance

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1. Scope and Purpose

This document analyses the systemic design and foreseeable institutional consequences of the NPCC Interim Transgender Search Guidance, as supported by its Equality Impact Assessment (NPCC, August 2025). The guidance, revised following the Supreme Court ruling in *For Women Scotland Ltd v Scottish Ministers* in April 2025, establishes natal sex as its primary classification variable for determining which officers may search which detainees, with a consensual override mechanism for cases where officer and detainee agree to a departure from that default.

This analysis does not address legal permissibility. The guidance has been produced in the context of active judicial review, is explicitly described as interim, and awaits further legal development. This analysis addresses a different question: whether the classification system the guidance creates performs reliably, in the specific operational domain of police searching, for the institutional outcomes it claims to govern — dignity, safety, proportionality, and consistency of treatment.

Systems analysis operates at a different level of resolution from legal adjudication. In this context, the classification system refers to the institutional rule that assigns search responsibility based on natal sex classification and its associated operational mechanisms. It evaluates how institutional classifications function when implemented across populations, and what predictable operational consequences follow from those structures when they are embedded in daily practice. Its primary concern is not the individual case but the institutional design: the assumptions built into the system, the mechanisms through which those assumptions produce operational consequences, and the capacity of the system to detect and correct its own failures.

This analysis draws on the EIA document itself, the policy developments documented between February and August 2025, the companion analyses of segregation and enforced disclosure (Wren, 2026a) and safeguarding failures in sexual violence services (Wren, 2026b), and the broader research base on institutional classification and psychosocial outcomes. Its purpose is prospective: to identify foreseeable systemic effects before they become structurally embedded in police operations.

The Equality Impact Assessment is not merely context for this analysis. It is itself part of the classification system under examination. Section 9 analyses the EIA as an institutional document — its structure, its evidential architecture, and the institutional risks it generates through the impacts it cannot see. The EIA's candour about the guidance's limitations is noted; that candour does not resolve the structural problems this analysis identifies.

This document follows prior correspondence submitted to the NPCC in December 2025 and January 2026, which raised specific analytical concerns regarding the operational use of natal sex classification in search assignment, including its relationship to current anatomical state, safeguarding outcomes, and the internal consistency of the guidance's dignity and proportionality framework.

The NPCC's response of 20 January 2026 confirmed its legal interpretation that sex, for operational purposes, should be understood as the sex recorded at birth, and stated that the guidance would not be amended. That response addressed the legal basis of the classification but did not examine the operational reliability of natal sex classification as a predictive variable governing search assignment, nor the structural mechanisms through which the guidance's consent, exemption, and assignment provisions operate in practice.

This document therefore formalises those unresolved operational and systems-level questions as a structured analysis. Its purpose is to provide an auditable examination of the

classification architecture established by the guidance, its operational mechanisms, and its foreseeable institutional consequences, ensuring that the analytical basis for those concerns is visible and traceable within the institutional and governance record.

Legal authority establishes whether a classification may be used. Systems analysis evaluates whether that classification functions reliably as a predictive instrument within its operational domain. These are distinct questions. A classification may be legally authorised while exhibiting predictive and observability failures that compromise its operational reliability. This analysis addresses that latter question. The evaluative standard applied throughout this analysis is predictive reliability: whether the classification variable reliably predicts the safeguarding, dignity, and operational conditions it is used to govern.

2. Population and Terminology

2.1 The Population Under Analysis

The scale of the population affected by this classification system can be estimated using national census data. The 2021 Census for England and Wales recorded 262,000 individuals aged 16 and over (0.54% of respondents) whose gender identity differed from their sex registered at birth (Office for National Statistics, 2023). Where direction of transition is not specified, a symmetrical distribution provides a neutral baseline estimate of approximately 131,000 transitioned or transitioning women.

Not all individuals within this population have undertaken medical transition. The largest available population-scale dataset found that 78% of transgender respondents had undertaken or intended to undertake medical transition (James et al., 2016). Community-based longitudinal observations within UK transitioned female populations indicate higher proportions in medically established cohorts, approaching 97% (Wren, 2026). Applying these empirically grounded lower and upper bounds produces an operational estimate of approximately 100,000 to 130,000 medically transitioned or transitioning women residing in England and Wales.

This population represents a defined operational cohort whose members interact with police services across custodial, stop and search, and safeguarding contexts governed by the guidance. Classification reliability must therefore be evaluated in relation to this population scale rather than at the level of individual encounter frequency.

The population under consideration is not the broad category of people who “identify as transgender”. It is specifically transitioned women: individuals whose natal sex was male, who have undergone medical transition — typically involving sustained hormone therapy and frequently surgical intervention — and who live and are often perceived as women in daily life. The analysis that follows concerns this population: people whose bodies, social presentation, and daily interactions are organised around a female identity, and for whom classification by natal sex describes a historical fact about their birth rather than their current material reality.

The NPCC guidance uses the term 'transgender' as its primary population descriptor. This analysis does not. The reason is substantive, not stylistic.

'Transgender' is an umbrella term. In its earlier political usage it was descriptive of a shared social experience: all those punished or excluded for not conforming to conventional gender expectations. Under this framing, the umbrella covers butch lesbians, feminine men, cross-dressers, drag performers, gender-fluid individuals, and people who undergo full hormonal and surgical medical transition. These are categorically different people with categorically different material states, different social circumstances, and different relationships to institutional systems.

'Transgender', in its contemporary common usage, describes an internal belief or sense of self: an individual's identification with a gender that differs from their natal sex. Identity in this sense is a psychological and in some cases, a social reality. It is not, however, a reliable observable variable in the institutional encounter. An internal belief about gender identity is not observable across a custody desk, in a stop-and-search, or in a deployment decision. It cannot be measured, verified, or consistently applied as a classification criterion. What is observable — and what this analysis treats as the relevant variable — is current physical and anatomical state: the body the person brings to the encounter, shaped by their medical history, present anatomy, and lived social reality.

As a classification variable in an operational context — determining who may search whom, how vulnerability is assessed, which facilities are appropriate — 'transgender' is therefore

not a workable category. It cannot predict anything about anatomy, physiology, dignity, safeguarding risk, the interaction with human rights, or the search encounter, because the people it describes have almost nothing materially in common. A cross-dresser who wears women's clothing socially and a woman who has lived on hormone therapy for fifteen years and undergone surgical transition are both, under the umbrella, 'transgender'. Their material circumstances in a custody search encounter are entirely different.

Classification is a predictive instrument. It works only when the variable being classified predicts the outcome of interest.

2.2 Biology Is Not Static

A classification system grounded in natal sex rests on a particular and contestable assumption: that sex, as established at birth, is the relevant biological variable for the institutional outcome of interest. The guidance uses the term 'biological sex' for this variable. This analysis does not, for reasons that are substantive rather than terminological.

The phrase 'biological sex' implies that the classification reflects current biology. It is, in effect, a claim that natal sex assignment is an accurate proxy for the biological state of the person being classified. For the population this guidance primarily affects — people who have undergone sustained medical transition — that claim does not reliably hold for this population. As the sections below establish, a transitioned woman on stable hormone therapy has blood parameters, metabolic markers, and secondary (and in some cases primary) sex characteristics that move substantially toward female reference ranges across multiple measurable systems, with documented clinical significance (Hembree et al., 2017; Cheung et al., 2021). Her biology has meaningfully changed. Calling her natal sex classification her 'biological sex' does not describe her current biology; it describes a historical assignment that her current biology has substantively diverged from.

Biology is a dynamic process. The body changes continuously across the lifespan — through development, ageing, disease, medication, and medical intervention — and those changes are operationally significant. Medicine organises itself around this reality. A person is seen by a paediatrician because their physiology is a child's physiology. They are seen by a geriatrician because their physiology is an older person's physiology. Cardiovascular risk is assessed using current metabolic markers, not the markers at birth. Drug dosages are calculated on current weight and renal function, not on historical values. In every clinical domain, current state is the operative variable because current state predicts current risk and current need. A clinician who applied male reference ranges to a transitioned woman's bloods would be providing clinically incorrect care.

'Natal sex' is the precise term. It names what the classification actually measures: the sex assigned at birth, recorded at registration, based on observed anatomy at a single point in time. It makes no implicit claim about current biological state. It does not suggest that the classification is an accurate representation of present physiology. It is a historical variable, applied forward in time, to people whose biology has since changed. Natal sex classification applied to this population — in medicine, safeguarding, or operational policing — that disregards current social, psychological, and anatomical state is not making a neutral administrative choice. It is applying a historical variable to predict a current state it does not reliably describe.

2.3 What Classification Systems Can Observe

This section establishes what the material reality is, in anatomical terms, for the population most directly affected by the guidance. This distinction is operationally significant because the NPCC's correspondence of January 2026 dismissed engagement with anatomical specificity as "not useful," and stated that officers are "not in a position" to assess the extent of surgical intervention. That position rests on leaving the anatomy unspecified. Once the

anatomy is specified, the claim that natal sex classification reliably describes the body present at the search encounter becomes unsustainable.

Secondary sex characteristics: breast anatomy. Oestrogen acts on mammary tissue through an identical biological mechanism regardless of natal sex. Both natal females at puberty and transitioned women receiving oestrogen therapy undergo the same hormone-driven process: ductal elongation, lateral branching, terminal duct lobular unit formation, and stromal expansion, mediated by oestrogen receptor alpha activation (Lorigo and Cairrao, 2021). The result is the same tissue architecture: ductal epithelium, lobular units, and stromal composition that are histologically and functionally equivalent to natal female breast tissue. The peer-reviewed clinical literature states this directly: oestrogen therapy in transitioned women “causes development of ductal epithelium and lobules” and “the same breast pathology that occurs in natal women should be expected in transgender women” (Cyrllak and Ho, 2018). Breast cancer risk, screening protocols, and imaging guidelines are calibrated accordingly. A transitioned woman who has undergone oestrogen therapy for two or more years presents, at the search encounter, with breast anatomy that is clinically equivalent to natal female breast tissue in every respect relevant to dignity, privacy, and safeguarding.

Primary sex characteristics: genital anatomy following vaginoplasty. Penile inversion vaginoplasty — the most commonly performed genital surgery for transitioned women — produces the following anatomical outcomes: orchiectomy and penectomy remove the testes and erectile tissue; the glans penis is used to construct a neoclitoris with intact dorsal neurovascular bundle, preserving erogenous sensation; scrotal skin forms the labia majora; urethral and preputial tissue forms the labia minora; and penile skin is inverted to line a vaginal canal created in the anatomical space between the bladder and rectum, at a typical depth of 12–16 cm (Hontscharuk et al., 2021; Opsomer et al., 2023). The urethra is shortened and repositioned to emerge above the vaginal opening, enabling seated urination. No penile or testicular anatomy remains. The external anatomy that results is a vulva: labia majora, labia minora, clitoris with clitoral hood, urethral meatus, and vaginal introitus. An EIP search of a transitioned woman who has undergone vaginoplasty involves visual examination of a vulva.

Natal sex classification applied to a transitioned woman who has undergone this intervention does not merely fail to describe her anatomy. It describes the opposite of it. The classification record states male. The anatomy present at the search encounter is female in its observable respect. This is not merely a predictive limitation — it represents a structural mismatch between classification record and present anatomy.

2.4 Dignity in Healthcare

The NPCC guidance applies natal sex classification as the operative variable for search assignment. Every other regulated professional domain in the United Kingdom that involves intimate exposure of the body resolves the equivalent question differently. The structural principle they share is consistent: safeguarding obligations follow present anatomical exposure, not historical classification.

The Nursing and Midwifery Council Code (2018) requires registered nurses to “treat people as individuals and uphold their dignity,” and to take “all reasonable steps to meet people’s needs.” The NHS Constitution establishes the right to “respect, dignity, compassion and care.” The Care Quality Commission’s Fundamental Standards, Regulation 10, requires that care and treatment are provided in a way that ensures dignity and respects privacy. NICE guideline NG97 specifies that staff should attend to patients’ privacy and dignity during all care activities involving exposure. None of these frameworks conditions dignity protection on verification of natal sex. A nurse assessing or treating a patient with breast tissue does not first establish natal sex classification before determining whether dignity-preserving procedures apply. The safeguarding obligation arises from present anatomical exposure —

from the body as it is encountered. This is not an edge case in clinical practice. It is the settled operational standard across the entire regulated health and care sector.

This consistency across regulated safeguarding domains indicates that dignity protection mechanisms have historically been structured around present anatomical exposure rather than historical classification, reflecting the operational conditions under which dignity risk arises. Therefore, in healthcare, organised around a biological reality, even when a historical categorisation is applied, the only reasonable way to accommodate transitioned women within the male population is a compromise: using a side room.

PACE and its Codes of Practice establish same-sex searching requirements precisely because intimate searches involve exposure of the body and the dignity risks that follow from that exposure. The rationale is the protection of the person being searched from the experience of bodily exposure before someone whose relationship to their anatomy is not that of a same-sex officer. That rationale is grounded in present anatomy. When natal sex classification produces a search pairing that is the anatomical equivalent of an opposite-sex search — a natal-male-classified officer examining a vulva — the mechanism the guidance creates weakens the operational purpose of the same-sex searching requirement it is designed to fulfil.

2.5 Safeguarding as a Predictive Institutional Function

Safeguarding is a statutory protective function established under the Care Act 2014 to prevent abuse, neglect, and harm. Section 42(1) of the Act requires public authorities to take safeguarding action where there is reasonable cause to suspect that an adult is experiencing, or is at risk of, abuse or neglect and is unable to protect themselves from that risk. This establishes safeguarding as a forward-looking institutional duty concerned with identifying and preventing foreseeable harm arising from present circumstances.

The operational meaning of safeguarding is defined in the Care and Support Statutory Guidance issued under Section 78 of the Act. Section 14.2 defines safeguarding as protecting an adult's right to live in safety, free from abuse and neglect. Section 14.34 requires safeguarding enquiries to assess the nature and extent of risk and the circumstances in which it arises. This includes assessment of the adult's physical condition, psychological vulnerability, and situational exposure to harm. Safeguarding assessment is therefore not a categorical or archival classification exercise. It is a predictive evaluation of present vulnerability.

The statutory guidance identifies the specific forms of harm safeguarding systems exist to prevent (Section 14.17–14.18), including sexual abuse, psychological abuse, neglect and acts of omission, and organisational or institutional abuse. These harm categories are directly engaged in custodial search contexts, where the institution exercises coercive authority over the individual and controls exposure of intimate anatomy.

Sexual abuse, within safeguarding doctrine, includes non-consensual intimate bodily exposure and violation under coercive authority. Psychological abuse includes degrading or humiliating treatment arising from institutional processes. Neglect and acts of omission include failure to implement safeguards necessary to prevent foreseeable harm arising from institutional procedures. Organisational or institutional abuse includes harm arising from institutional policies or classification systems that fail to protect individuals from degrading or harmful treatment.

These statutory safeguarding categories establish the operational purpose of safeguarding systems: preventing harm arising from the present conditions of institutional encounters.

The statutory safeguarding framework further establishes governing principles for institutional conduct (Care and Support Statutory Guidance, Section 14.13), including prevention, proportionality, protection, and accountability. Prevention is foundational.

Safeguarding systems must anticipate and prevent harm before it occurs. This requires classification and decision variables that reliably predict safeguarding risk in the encounter itself.

Safeguarding assessment therefore operates as a predictive institutional function. It evaluates the person as they exist at the time of the encounter, including present anatomy, physiological state, psychological vulnerability, and the situational power relationship between the individual and the institution. Safeguarding protection is structured around the body as it is encountered, not solely around natal sex.

This operational principle is reflected consistently across regulated safeguarding domains, including healthcare, social care, and custodial practice. Safeguarding risk arises from present anatomical exposure, present vulnerability, and present institutional power asymmetry. Safeguarding systems function by identifying and mitigating those present risks.

The NPCC's operational implementation of its Interim Transgender Search Guidance explicitly departs from this safeguarding model. NPCC has confirmed, as a defined institutional position, that post-transition anatomy is not treated as materially relevant for search allocation. The classification system therefore determines search assignment based on natal sex without regard to the anatomy present at the encounter.

This creates a structural divergence between the safeguarding variables safeguarding doctrine requires institutions to assess and the classification variable the guidance uses to govern search assignment. Safeguarding risk in intimate search encounters arises from the exposure of intimate anatomy and the experiential and institutional conditions under which that exposure occurs. A classification system that explicitly excludes present anatomy from its assignment logic removes a primary safeguarding-relevant variable from its decision framework.

Administrative classification does not alter anatomical reality or the safeguarding risks associated with its exposure. Reclassification does not alter the vulnerability profile or safeguarding consequences associated with the anatomy present.

Classification variables within safeguarding systems function as predictive instruments. Their operational validity depends on their ability to reliably predict safeguarding risk in the encounter itself. Natal sex classification records a historical observation made at birth. It does not, in isolation, specify the anatomy present at the encounter or the safeguarding risks arising from exposure of the body as it exists at the time of search.

The question addressed here is operational: whether natal sex classification, applied in isolation and explicitly excluding present anatomical state, functions coherently as a predictive safeguarding variable within the institutional system it governs.

When analysed as a safeguarding system, the classification framework exhibits a structural disconnect between the variable used to govern search assignment and the safeguarding risks that assignment is intended to mitigate. The classification therefore functions as an administrative routing variable, but does not function as a complete safeguarding predictor in isolation within the operational domain of custodial searching.

2.6 Psychiatric Vulnerability in Custodial Contexts

Safeguarding assessment under the Care Act statutory framework explicitly includes evaluation of psychological vulnerability and mental health state as part of the determination of safeguarding risk. The Care and Support Statutory Guidance (Section 14.34) requires safeguarding enquiries to assess the adult's physical condition, mental capacity, and psychological circumstances when determining risk and appropriate protective measures.

Custody environments are recognised institutional settings of elevated psychiatric risk. Detention involves loss of liberty, institutional authority, uncertainty, and involuntary bodily

exposure. These conditions independently increase the risk of acute psychological distress, panic reactions, dissociation, and self-harm. Safeguarding procedures in custody therefore incorporate mechanisms specifically designed to identify and mitigate psychiatric risk, including vulnerability screening, observation protocols, and mental health referral pathways.

This safeguarding requirement applies with particular significance to populations with elevated baseline psychiatric vulnerability. Large-scale population data consistently demonstrate substantially elevated rates of depression, anxiety, post-traumatic stress disorder, and suicidality among medically transitioned individuals relative to general population baselines (James et al., 2016). These vulnerabilities are not theoretical. They represent clinically recognised safeguarding risk factors requiring institutional awareness and mitigation.

The NPCC guidance introduces classification mechanisms that may increase psychological safeguarding risk in custody encounters. These include mandatory disclosure requirements, classification conflicts between documentation and embodiment, and supervisory escalation mechanisms such as constant watch. Constant watch is an institutional intervention typically used to manage acute psychiatric risk, including risk of self-harm. When applied as a procedural consequence of classification resolution rather than psychiatric assessment, it introduces additional psychological stressors independent of underlying behavioural risk.

This interaction between classification procedures and psychiatric safeguarding risk represents an operational safeguarding variable. Safeguarding systems must assess not only physical risk arising from bodily exposure, but also psychological risk arising from institutional procedures themselves. A classification system that governs custodial procedures without incorporating psychiatric vulnerability as part of its operational risk model cannot fully predict or mitigate safeguarding risk in the population it governs.

Psychiatric vulnerability is an operational safeguarding variable under the statutory safeguarding framework, and classification systems governing custodial search procedures operate within an environment in which psychiatric safeguarding risk is both foreseeable and institutionally recognised. The operational adequacy of any classification system must therefore be evaluated in relation to its ability to account for both anatomical and psychological safeguarding risk within the custodial encounter.

3. The Institutional Context: Three Policy Positions

The NPCC EIA documents three successive policy positions between February 2025 and August 2025. Read together, they reveal an institution navigating a rapidly shifting legal landscape rather than implementing a classification system grounded in operational evidence. Each position represents a different institutional response to external legal pressure, and each inherits the structural problems its predecessor failed to resolve.

3.1 The February 2025 Position: Legal Sex via GRC

The February position recommended that officers who have undergone gender reassignment search in line with the sex established by a Gender Recognition Certificate. The GRC is a statutory document obtainable through a formal process under the Gender Recognition Act 2004, confirming an individual's legal sex for all purposes of that Act. The effect of this position was to treat formal legal sex as the operative classification variable.

The EIA identified the systemic problem immediately: fewer than 2% of people who have undergone gender reassignment in the UK hold a GRC. The process (in England and Wales) requires a minimum of two years, medical reports from approved practitioners, spousal consent where applicable, and administrative costs. A policy predicated on GRC status therefore addressed a fraction of the population it claimed to govern, while creating a formal two-tier structure among officers who have undergone gender reassignment. The policy was internally inconsistent from the outset, the EIA recorded this without resolving it.

3.2 The May 2025 Position: Natal Sex with Consent Override

The Supreme Court's April 2025 ruling that 'man', 'woman' and 'sex' in the Equality Act refer to 'biological sex' rendered the GRC criterion legally untenable under that framework. The May position moved to natal sex — described in the guidance and the Supreme Court ruling as 'biological sex' — as the primary classification variable, with a consensual override available where both officer and detainee agree to a search conducted on different terms.

This shift introduced a structural ambiguity that the guidance does not resolve. The EIA notes that the Supreme Court ruling 'specifically referred to the definition of sex in the Equality Act with no stipulation that this definition also applied to PACE.' The classification variable at the heart of the guidance rests on an inference — that the Equality Act definition applies to PACE's same-sex searching requirements — that has not been legally confirmed. The guidance is explicitly interim, pending that confirmation. The operational system is therefore built on an unsettled legal foundation while generating immediate institutional consequences for officers and detainees.

3.3 The August 2025 Position: Unchanged Policy, Active Review

The August update reports the withdrawal of the BTP judicial review on 14 July 2025, followed within days by a new judicial review notice directed at the NPCC Interim Guidance itself. The substantive policy is unchanged. Three further cases are ongoing: Peggie v Fife NHS Trust, potential judicial review from Sex Matters, and Good Law Project v EHRC. The guidance is governing live operational decisions while the legal framework it depends on is simultaneously contested in multiple jurisdictions.

This three-position history reveals a classification framework developed in response to legal constraint rather than prospective operational modelling. Each revision has responded to legal change. None has been preceded by operational evidence-gathering about how the previous position was performing in practice, or by prospective outcome modelling for the population affected. The EIA is produced in parallel with each revision rather than in

advance of it. The institutional logic is compliance-oriented: the question being answered is not 'what classification will produce the best operational outcomes?' but 'what classification is legally defensible given the most recent ruling?' These are different questions, and their conflation is the starting point for the systemic failures this analysis documents.

3.4 Reactive Classification and Constraint-Driven System Design

The Interim Transgender Search Guidance was developed in the context of a change in the legal environment following the Supreme Court's decision in *For Women Scotland Ltd v Scottish Ministers* [2025] UKSC 16. That judgment addressed the interpretation of "sex" within the Equality Act 2010. It did not directly prescribe custodial search procedures under PACE, nor did it establish operational guidance for police safeguarding practice.

The guidance therefore represents an institutional response to a change in legal constraint rather than to a change in custodial operational conditions. The anatomy, physiology, and safeguarding characteristics of detainees did not change as a result of the judgment. The operational environment remained constant. The classification framework changed in response to a change in legal interpretation rather than a change in safeguarding conditions.

This distinction is operationally significant. Classification systems can be designed to optimise for different performance criteria, including legal definitional consistency, administrative simplicity, or operational predictive validity. Where classification systems are optimised to maintain definitional consistency with external legal categories, their alignment with operational safeguarding variables may be reduced if those legal categories do not fully correspond to the operational conditions the system governs.

Safeguarding systems operate on predictive logic: classification variables must reliably predict vulnerability, exposure, and risk in the encounter itself. Legal classification systems operate on definitional logic: categories are defined according to statutory interpretation rather than predictive operational performance. These functions are related but not identical.

When a classification variable is adopted from a legal definitional framework and applied as an operational routing variable, its operational performance depends on the degree of correspondence between legal definition and operational safeguarding conditions. Where correspondence is incomplete, classification reliability as a safeguarding predictor may be reduced even while legal definitional consistency is preserved.

This analysis does not assess legal correctness or institutional intent. It identifies a structural property of classification systems operating at the intersection of legal definition and operational safeguarding. The Interim Transgender Search Guidance implements a classification variable derived from legal definitional logic within an operational safeguarding system governed by predictive logic. The functional performance of the classification system must therefore be evaluated in relation to its predictive safeguarding role rather than its legal definitional origin.

3.5 International Safeguarding Frameworks and Custodial Dignity

Custodial safeguarding systems operate within both domestic statutory frameworks and international human rights obligations accepted by the United Kingdom. These international frameworks establish baseline institutional standards governing treatment of individuals in detention, including protection from degrading treatment and preservation of bodily dignity.

The United Nations Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment has specifically identified custodial practices affecting transgender individuals as engaging established safeguarding domains related to dignity, bodily integrity, and protection from degrading treatment (United Nations Human Rights Council, 2016). The Special Rapporteur's analysis emphasises that custodial classification systems and search

procedures must be evaluated in relation to their operational effects on dignity, vulnerability, and exposure to harm.

This framework does not create new safeguarding principles. It formalises existing safeguarding concepts within an international institutional context. Protection from degrading treatment, preservation of bodily dignity, and mitigation of custodial vulnerability are already foundational elements of domestic safeguarding systems, including those established under the Care Act 2014 and PACE Code C.

The relevance of international safeguarding frameworks in this context is structural rather than determinative. They establish that custodial classification systems governing bodily exposure operate within recognised safeguarding domains defined not only by domestic statute but also by international institutional practice. These frameworks provide an established analytical basis for evaluating classification systems in terms of their operational interaction with dignity, safeguarding, and vulnerability.

The Equality Impact Assessment accompanying the guidance evaluates impacts primarily within the framework of domestic equality legislation. International safeguarding frameworks operate at a different analytical level. They assess custodial classification and search procedures in relation to institutional safeguarding outcomes, including dignity preservation, psychological harm, and vulnerability exposure.

This analysis does not assess compliance with international law. It establishes that custodial classification systems operate within institutional safeguarding domains recognised across both domestic and international frameworks. The safeguarding variables examined in this analysis—including anatomical exposure, psychological vulnerability, and classification-induced disclosure—correspond directly to established institutional safeguarding categories recognised in international custodial safeguarding practice.

4. What the Classification Variable Is Asked to Predict

In the context of police searching, natal sex classification functions as the routing variable governing search assignment. The guidance's stated aims are consistency, dignity, respect, and safety. By determining which officers are assigned to conduct searches, natal sex classification operates as the predictive instrument responsible for producing dignity-preserving and safe operational outcomes. The guidance therefore embeds the assumption that natal sex classification reliably predicts the conditions relevant to those outcomes. However, the Equality Impact Assessment does not empirically evaluate whether this assumption holds within the specific operational context of medically transitioned detainees.

Two candidate explanatory mechanisms can be identified from the structure of the guidance and the Equality Impact Assessment: a privacy mechanism and a safety mechanism.

The privacy mechanism reflects the longstanding principle that detainee dignity requires limiting exposure of intimate anatomy to officers classified as the same sex. Under this framework, natal sex classification functions as a proxy for the bodily characteristics relevant to that privacy interest. The operational logic of assigning search officers based on natal sex classification implies that the classification is being used to predict the anatomical conditions of the search encounter.

The reliability of this mechanism depends on correspondence between natal sex classification and the anatomy relevant to the privacy interest being protected. Where anatomy has been altered through hormonal or surgical intervention, natal sex classification may no longer reliably predict those anatomical conditions. The Equality Impact Assessment acknowledges this directly:

“It may not be appropriate for a male officer to search a transgender woman who has completed full medical intervention.”

This statement recognises that natal sex classification may fail to predict the bodily conditions of the search encounter in medically transitioned detainees. The guidance records this predictive limitation but does not alter natal sex classification in response to it.

The second mechanism is a safety mechanism. Natal sex classification is treated as a proxy variable for safeguarding risk, based on the premise that searches conducted by officers classified as the same sex as the detainee reduce the likelihood of harm or perceived violation. This framework is reflected in the Equality Impact Assessment's identification of natal female detainees as a vulnerable population and its concern regarding search encounters involving officers whose natal sex classification differs from detainees' physical and social presentation.

However, the Equality Impact Assessment does not present empirical evaluation demonstrating that natal sex classification predicts safeguarding outcomes **more reliably** than alternative operational approaches *within the specific population for which predictive correspondence is acknowledged to diverge*. It does not present incident logs, complaint data, or comparative outcome evidence linking natal sex classification to improved dignity or safety outcomes in search encounters involving medically transitioned detainees. While it notes that other agencies deploy officers who have undergone gender reassignment in accordance with legal sex classification, it does not present outcome evidence demonstrating the operational effects of this approach or comparing it to alternative classification methods.

This absence of outcome validation is analytically significant. Classification systems function as predictive instruments whose operational reliability depends on demonstrable correspondence between the classification variable and the outcomes they are used to regulate. The Equality Impact Assessment acknowledges that natal sex classification may not correspond to the anatomical conditions of the search encounter in medically

transitioned detainees, yet does not evaluate whether natal sex classification nonetheless produces superior safeguarding outcomes compared to classification approaches grounded in present anatomical exposure or other operationally observable variables.

In the absence of such empirical validation, natal sex classification operates as a legally defined administrative variable whose predictive reliability for dignity and safeguarding outcomes in medically transitioned detainees has not been empirically established. This does not establish that natal sex classification is operationally ineffective. It establishes that its predictive validity has not been evaluated within the population for which predictive correspondence is acknowledged to diverge.

This distinction is material to proportionality analysis. A classification system cannot be evaluated as a proportionate means of achieving dignity and safety objectives unless the classification variable (natal sex) demonstrably predicts those outcomes in the population to which it is applied. Legal necessity establishes authority to apply a classification. It does not establish that the classification reliably produces the operational outcomes it is used to govern.

Where natal sex classification is applied despite acknowledged uncertainty regarding its predictive correspondence to the conditions of the search encounter, and without empirical validation demonstrating its safeguarding effectiveness, the classification functions as a legally defined administrative rule whose operational reliability has not been established within the domain it governs.

5. Search Types, Sex Determination, and the Intelligence Record

The guidance applies to 'searches exposing intimate parts (EIP) or more thorough searches in accordance with PACE.' This formulation covers a range of operationally distinct search types, each with different legal foundations, different same-sex requirements, different locations, and different points at which the sex determination problem arises. The guidance treats these as a unified category. They are not. Analysing where the classification failure occurs, and how, requires distinguishing between them.

5.1 The PACE Search Taxonomy

PACE and its Codes of Practice establish five operationally distinct search types, each differing in intrusiveness, authorisation threshold, legal basis, and operational environment.

These differences determine where and how the sex determination problem arises. We present a brief overview followed by more detailed articulation below

1. Basic search (outer clothing only)

Authorised under s1 PACE and s60 CJPOA.

- Removal limited to outer garments such as coat, jacket, gloves
- May be conducted in public
- No statutory natal-sex requirement
- Same-sex searching exists primarily as operational convention rather than statutory mandate

At this level, natal sex classification is not required by primary legislation.

2. More thorough search (MTS)

Governed by Code A.

- Removal of clothing beyond outer garments
- Does not expose intimate parts
- Must be conducted out of public view
- Natal-sex requirement exists under Code A guidance

These searches frequently occur roadside, where officer availability is constrained.

3. Strip search exposing intimate parts (EIP)

Governed by s54 PACE and Code C Annex A.

- Exposure of genitalia, breasts, or buttocks
- Conducted only in custody or suitable nearby location
- Statutory same-sex requirement (s54(9) PACE)

This is the primary legal domain directly governed by statutory same-sex requirements.

4. Intimate search

Governed by s55 PACE.

- Physical examination of body orifices
- Requires Inspector authorisation

- Usually conducted by healthcare professionals
- Strong statutory prohibition on opposite-sex search

This is the most legally restricted and operationally controlled category.

5. Arrest search (s32 PACE)

- Conducted at point of arrest
- Field environment
- No statutory same-sex requirement
- Same-sex searching exists as operational practice rather than statutory mandate

Sex determination must occur under field conditions without intelligence system access.

In detail:

Basic search (outer clothing only). Authorised under s1 PACE and s60 CJPOA for stop and search prior to arrest. The officer may require removal of outer coat, jacket, and gloves only. This search may be conducted in public. There is no statutory requirement for a same-sex officer — the requirement is one of good practice and convention, not primary legislation. The guidance's natal sex classification requirement does not derive from statute at this level of search; it is an operational standard layered on top.

More thorough search (MTS). Requires removal of more than outer clothing — for example a T-shirt — but does not expose intimate body parts. Must be conducted out of public view, in a police van or at a nearby location. Governed by Code A. The same-sex requirement applies at this level under Code A. This search can occur at the roadside, and it is here that the guidance's 'when expeditious' qualification becomes operationally significant: arranging a same-sex officer for an MTS at a roadside stop is not straightforwardly possible.

Strip search exposing intimate parts (EIP). Requires the removal of all or most clothing, exposing genitalia, buttocks, and breasts. Governed by s54 PACE and Code C Annex A. Must be conducted at a custody suite or nearby location out of public view — not in a police vehicle. The same-sex requirement is statutory: s54(9) PACE states that 'the constable carrying out a search shall be of the same sex as the person searched.' This is primary legislation. The EIA's figure of 75,173 strip searches in the year ending March 2024 refers primarily to this category.

Intimate search. A physical examination of body orifices other than the mouth. Authorised under s55 PACE only, requiring Inspector authorisation on grounds of harm risk or Class A drugs possession. Must be conducted at a custody suite or medical facility. The statutory prohibition is stronger than for EIP searches: s55(7) states that 'a constable may not carry out an intimate search of a person of the opposite sex.' The EIA records 12 intimate searches in the year ending March 2024, conducted by healthcare professionals. This search type cannot be authorised under any stop and search power — it is exclusively a post-arrest, custody-only power.

Arrest search (s32 PACE). Permits search of an arrested person at the scene to establish whether they present a danger or possess evidence. Not a strip search power; intimate searches cannot be conducted under s32. The same-sex convention applies. This search occurs at the point of arrest before the person reaches custody, meaning the sex determination problem arises in the field, without access to intelligence systems.

The statutory same-sex requirement therefore exists at three different legal levels across these categories: no statutory requirement at the basic search level; Code A guidance for MTS; primary legislation (s54(9)) for EIP custody searches; and a stronger statutory prohibition (s55(7)) for intimate searches. The guidance elides these distinctions, applying a

single natal sex classification framework across all levels. The legal consequence of misapplication differs depending on which search type is involved. The operational consequence — the sex determination problem and the disclosure burden — also differs in character across them.

5.2 Natal Sex Determination at the Encounter

The guidance establishes a rule that searches be conducted in accordance with natal sex. This classification variable must be operationally established at the point of encounter. The guidance's own sex-undetermined provision acknowledges that natal sex cannot always be established. What it does not acknowledge is that the two methods available for establishing it — visual assessment and intelligence record check — are both unreliable in different and predictable ways for the population most affected by the guidance. The guidance establishes a classification rule governing search assignment that requires officers to perform the following operational determinations:

Visual determination. For roadside searches — basic, MTS, and s32 arrest — access to intelligence systems such as the PNC is conditional and dependent on identity establishment, device availability, and operational urgency. Officers may consult PNC records where practicable, but search decisions may occur before identity has been established or intelligence checks completed. As a result, sex determination in roadside encounters often relies on visual and contextual assessment rather than verified intelligence classification.

For a transitioned woman who has lived on hormone therapy for years and presents entirely in her lived gender, a visually-based natal sex determination may produce a false negative: the officer reads her as female, which is how she presents, and the natal sex classification the guidance requires is not applied. The classification fails, silently. The guidance registers the encounter as compliant. From the perspective of the guidance's own classification framework, the search has proceeded correctly by natal sex — which in this case happens to correspond to observable sex characteristics — so no record is generated of the classification's failure to be applied.

The reverse error also occurs. A natal female who presents non-conventionally — masculine build, presentation, and manner — may be read as male by an officer conducting a rapid visual assessment, producing a false positive: natal sex is female but the officer's read is male. At a roadside stop, the guidance's sex-undetermined fallback — 'conduct the search in line with documentation or presentation' — means that presentation becomes the operative variable. The guidance's primary classification variable defaults, under operational pressure, to the observable current state it was designed to override. Visual sexing institutionalises both error types, and neither generates a visible failure in the guidance's monitoring framework.

Intelligence record access is conditional and cannot be assumed to be available at the point classification decisions must be made, meaning natal sex classification in roadside encounters frequently relies on visual inference rather than verified record data.

Intelligence record check. In custody, officers have access to the Police National Computer (PNC) and local custody management systems. The PNC holds a sex or gender field as part of its nominal record for each individual. This might appear to resolve the visual determination problem. It does not, for two independent reasons.

The first reason is that the PNC nominal record reflects classifications recorded during prior police encounters and administrative processes, rather than a contemporaneous verification of current status. The sex field is populated at initial arrest or contact and may or may not have been updated to reflect subsequent legal, social, or medical changes. A transitioned woman who has had no police contact since transition may carry a natal sex classification

recorded years earlier. One who has had more recent contact may have been recorded differently at that encounter, depending on what information was supplied and how the recording officer applied it. The individual cannot know which classification is on record without submitting a Subject Access Request. She has no right to be informed of her classification before a search decision is made on the basis of it.

The second reason is that nominal records are not created or controlled by the person they describe. The PNC is a police intelligence document. It records what officers have recorded across prior encounters. A transitioned woman may have no knowledge of how she is classified in police systems. She may have legally changed her name, updated all her documentation, and lived entirely in her lived gender for a decade — and still carry a natal sex classification in police systems because a prior arrest predated her transition, or because the relevant force records natal sex by default regardless of subsequent documentation changes.

Operational resolution: A transitioned woman is arrested and brought to custody. The custody officer checks the PNC. Her record, created at an arrest eight years ago before her transition, classifies her as male. Her current documentation, clinical history, and presentation all indicate female. The officer is now holding two conflicting data points. The guidance's sex-undetermined provision applies: a conversation must be undertaken to establish natal sex. That conversation requires her to disclose her transition history in order to resolve a discrepancy she did not create, may not have known existed, and cannot correct. She has not invoked the consent mechanism. She has been required to disclose protected biographical information as a direct consequence of an intelligence classification held about her without her knowledge.

6. The Structure of the Search Encounter

The search encounter is the operational unit within which the classification system must function. It is time-constrained, frequently conducted under pressure, and occurs in environments — roadside stops, custody suites, custody intake — where the opportunity for multi-stage deliberation is limited.

The guidance establishes a classification rule governing search assignment, which officers must apply in order to remain compliant with PACE and national operational standards. In encounters involving officers or detainees who have undergone gender reassignment, the operating policy requires officers to:

- determine the natal sex of the detainee
- determine the natal sex of the searching officer
- construct a search pairing compliant with the natal sex classification rule
- manage exemption requests
- if the detainee invokes the consent mechanism, identify a willing alternative officer
- implement fallback procedures if no compliant or willing officer is available

Each of these steps requires information availability, personnel availability, and time. These conditions cannot be assumed to exist uniformly across operational environments.

The EIA notes that 'as with most policing operational activities there are opportunities to change the officers conducting searches when expeditious to do so in order to reduce conflict.' The qualification 'when expeditious' is doing significant work. In urgent stop and search, in custody intake under high throughput, and in emergency circumstances, changing the searching officer is not straightforwardly possible. The guidance creates a system whose operational complexity is highest in precisely the conditions where operational simplicity is most important.

7. The Guidance Document: Operational Mechanisms

Police search encounters operate on the body as it exists at the time of search. The operational domain of the classification system is therefore the detainee's current anatomy, rather than their natal sex.

The EIA provides the analytical and consultative context for the guidance. The guidance itself — a two-page operational document published in May 2025 — specifies what officers must actually do. Read together, the two documents reveal a relationship between stated intent and operational design that the EIA alone does not expose. Several provisions in the guidance document generate consequences that the EIA does not address and that the EIA's monitoring framework cannot detect.

The Equality Act recognises both sex and gender reassignment as protected characteristics. It does not prescribe natal sex as the sole operational determinant of assignment in all contexts. The NPCC guidance operationalises natal sex classification as the primary assignment variable as part of its interpretation of same-sex search requirements under PACE and Equality Act proportionality provisions.

This section analyses five features of the guidance document as operational mechanisms. It does not challenge the guidance's stated aims — dignity, safety, consistency, respect — but examines whether the mechanisms the guidance creates are capable of delivering them.

7.1 The Consent Mechanism

The guidance introduces a consent mechanism for detainees who have undergone gender reassignment. Under the default assignment rule, searches are conducted according to natal sex classification. The consent mechanism permits an alternative assignment where a detainee indicates that the default arrangement is inappropriate and a willing and eligible officer is available to conduct the search. This is presented in the guidance as a protective measure. As a systems matter, it requires examination as a structural arrangement rather than an individual accommodation.

The mechanism creates a structural asymmetry between the detainee and the institution. The detainee's access to an alternative search arrangement is conditional on officer willingness and availability. The guidance is explicit: officers who do not wish to search a detainee who has undergone gender reassignment “will be able to exclude themselves from the search with no detriment.” There is no minimum provision requirement, and no obligation on the institution to ensure that an alternative officer is available.

Operational resolution: At the custody desk, the transitioned woman faces a decision under conditions of asymmetrical power. She may accept the default classification, which the guidance itself acknowledges may be inappropriate to her current anatomical and social state — or request an alternative arrangement. If she requests an alternative, the outcome depends entirely on whether a willing and eligible officer can be found. In a small custody facility with limited officer availability, none may be available. The mechanism has been invoked, but the default classification proceeds regardless. The guidance provides no institutional remedy for this outcome.

The consent mechanism therefore has the formal structure of protection without guaranteed operational effect. It creates a pathway that depends on disclosure under conditions that systemically discourage it, and makes the outcome of that disclosure contingent on officer willingness and availability rather than institutional provision. The institution preserves the classification rule while transferring responsibility for resolving its limitations to the individual detainee.

7.2 The Officer–Detainee Assignment Asymmetry

The guidance creates a structural asymmetry between officers and detainees that the Equality Impact Assessment does not identify or analyse. It introduces a consent mechanism specifically to protect the dignity of trans detainees, while explicitly declining to extend the same dignity-based protection to officers who have undergone gender reassignment.

The guidance states:

“The purpose of the proposed consensual regime is to preserve the integrity and dignity of trans detainees who are in custody where the alternative of a PACE search might amount to an interference with their Art 8/Art 3 rights. The same does not apply to an officer.”

This establishes an explicit institutional distinction. The guidance recognises that search assignment based on natal sex classification may interfere with the dignity of a detainee who has undergone gender reassignment. It does not recognise the same dignity risk for an officer who has undergone gender reassignment and who is required to conduct searches in accordance with natal sex classification.

The protected characteristic is identical. The institutional protection is not.

Operational resolution: A transitioned woman officer who has undergone full medical transition is required, under natal sex classification rules, to search detainees classified according to her natal sex. The guidance recognises that a transitioned detainee in an analogous situation may experience dignity interference and provides a consent-based accommodation. It does not recognise the same dignity risk in the officer performing the search. The officer is expected to perform searches in accordance with natal sex classification or seek exemption through disclosure mechanisms.

Over time, the exemption mechanism alters operational deployment patterns in ways that do not register as formal detriment. An officer who cannot search performs a narrower operational role. Deployment decisions are influenced by operational scope. Specialist role eligibility depends partly on demonstrated range of function. Supervisory assessments reflect what the officer can and cannot be deployed to do. None of these consequences requires any individual act of discrimination. They accumulate through normal operational processes that respond to documented capability. The classification system produces career limitation without a single identifiable moment of disadvantage — and without any monitoring system being able to connect the outcome to the guidance that produced it.

The exemption mechanism is, structurally, a disclosure mechanism. To access the exemption, an officer must declare a reason to their supervisor. The guidance attempts to mitigate this by providing 'more than one reason for exemption,' so that gender reassignment history is not the only route to exemption. This accommodation does not protect the informational privacy of officers in small operational teams where the pattern of exemption over time generates inferrable disclosure. A team member with no evident medical or religious reason for consistent exemption will be understood, over time, regardless of formal confidentiality protections.

The 'no detriment' assurance names an outcome without specifying the mechanism that produces it. An officer formally exempt from searching in a role where searching is a core operational function is performing a reduced version of that role. The EIA acknowledges the structural problem directly: 'There is still a reliance on transgender colleagues outing themselves and updating their supervision on their transgender history should they wish to exempt themselves from searches.' This is noted in the document. It is not resolved by it.

This reveals a structural asymmetry in how dignity is operationalised. Gender reassignment is recognised as creating dignity vulnerability in the detainee role but not in the officer role.

The guidance aims to protect the dignity of one party to the encounter while explicitly declining to recognise the same dignity interest in the other, despite both sharing the same protected characteristic and participating in the same operational context.

The classification system therefore implements dignity protection asymmetrically. The protected characteristic triggers institutional protection in one role and institutional obligation in the other.

7.3 Gender Reassignment Is Not Operationalised as a Routing Variable

Equality Act analysis operates through comparators: individuals in materially similar circumstances whose treatment can be meaningfully compared. The NPCC guidance states that it implements Equality Act compliance through natal sex classification and does not recognise gender reassignment — itself a protected characteristic under the Act — as a comparator-relevant variable capable of determining search assignment.

This produces a structural asymmetry. A transitioned woman detainee may be searched by an officer whose natal sex classification matches hers, regardless of whether that officer shares the protected characteristic of gender reassignment. The guidance contains no mechanism by which shared gender reassignment status functions as a recognised assignment determinant, even in circumstances where such a pairing would satisfy natal sex compliance and be operationally achievable.

This is not a theoretical limitation. It reflects a structural property of the classification system itself. Natal sex classification is treated as the operative determinant of assignment, while gender reassignment — although recognised as a protected characteristic requiring procedural accommodation through consent, exemption, and fragmented assignment provisions — *is not recognised as an assignment variable capable of determining search pairing*. The system can identify gender reassignment as a condition requiring procedural adjustment, but does not recognise it as a variable capable of resolving assignment independently.

Operationally, this creates comparator invisibility. A transitioned officer and a transitioned detainee may share the same natal sex classification and the same protected characteristic, and their pairing would be formally compliant with the guidance. However, the guidance provides no mechanism by which this shared protected characteristic can be recognised or operationalised as an assignment factor. Assignment decisions remain governed solely by natal sex classification, regardless of whether alternative compliant pairings exist that would more closely align with the operational conditions of the encounter.

Operational resolution: A transitioned woman detainee is held in custody. A transitioned woman officer is present and operationally available. Both share the same natal sex classification, and their pairing would be fully compliant with the guidance. However, because the assignment system tracks natal sex only and does not recognise gender reassignment as an assignment variable, there is no mechanism by which this pairing is *preferentially identified or facilitated*. The assignment outcome is determined by natal sex classification alone. The protected characteristic of gender reassignment is operationally visible only when it triggers exception or accommodation mechanisms, not as a determinant of assignment itself.

This reveals a fundamental limitation in the classification system's operational implementation of Equality Act comparator logic. The protected characteristic is recognised administratively and procedurally, but not operationally as an assignment determinant. The classification system therefore implements natal sex as the operative variable while leaving gender reassignment structurally unable to function as a comparator variable within the assignment framework.

This limitation also constrains the assignment system's ability to recognise situations in which gender reassignment itself may be operationally relevant to assignment resolution. Gender reassignment is recognised throughout the guidance as a protected characteristic requiring procedural accommodation, including consent mechanisms, exemption pathways, and alternative search arrangements. However, it is not recognised as a routing variable capable of informing assignment decisions.

This creates assignment-variable incompleteness. The system is capable of recognising gender reassignment as a condition requiring exception handling but is not capable of recognising it as a condition capable of informing assignment resolution. Assignment decisions are determined solely through natal sex classification, even in situations where alternative pairings may be operationally acceptable to both officer and detainee and may reduce disclosure burden or distress associated with the search encounter.

This structural limitation has practical consequences. A transitioned detainee may encounter officers who themselves share the protected characteristic of gender reassignment and who understand the disclosure burden, vulnerability, and dignity interests inherent in such encounters. However, the classification framework does not permit gender reassignment status to function as a routing variable, even where both parties consent and where such a pairing would reduce the harms the guidance itself identifies as foreseeable. Natal sex classification operates as an absolute routing constraint. The system cannot consider alternative assignment pathways that may better align with the operational aim of preserving dignity during intimate searches.

The classification system therefore resolves assignment through administrative consistency rather than through evaluation of the actual conditions of the encounter. Gender reassignment is recognised only as a source of exception and procedural complication, not as a characteristic capable of informing assignment resolution.

7.4 The Constant Watch Provision

The guidance specifies a consequence for cases where a detainee requests a search arrangement that differs from the default assignment determined by natal sex classification but no willing officer is immediately available:

"The detainee should be placed on a constant watch until a willing officer is found. Should this not occur within a reasonable time or the risk be deemed too great, the search will be completed by officers of the same biological sex."

This provision introduces an intermediate custodial supervisory state triggered not by detainee behaviour or assessed risk, but by the inability of the classification assignment variable to immediately produce a compliant search pairing.

Constant watch in custody is a supervisory condition involving continuous or near-continuous observation. It is normally applied as a risk management intervention in response to behavioural indicators, vulnerability assessments, or identified self-harm risk. Under the guidance, it is applied as a procedural holding condition while the institution attempts to identify an officer whose assignment satisfies the consent-based exception pathway. The supervisory escalation is triggered by classification resolution constraints rather than by any change in the detainee's behavioural risk profile.

Operational resolution: A transitioned woman in custody is classified according to natal sex classification. She requests a search arrangement corresponding to her current anatomical and physiological state. No willing officer is immediately available. She is placed on constant watch while officer availability is assessed. Her custodial supervisory status has changed — not as a result of behavioural risk, vulnerability assessment, or institutional safety concerns, but as a consequence of the classification assignment variable failing to immediately produce a compliant routing outcome. If no willing officer is identified within

operational limits, the default natal sex classification determines the assignment regardless of her current anatomical state. The intermediate supervisory condition does not guarantee resolution of the classification mismatch; it preserves the possibility of exception resolution while maintaining natal sex classification as the governing determinant.

This mechanism produces three structural consequences. First, invocation of the consent pathway introduces the possibility of supervisory escalation that would not otherwise occur — custodial conditions change as a direct consequence of classification architecture rather than behavioural risk. Second, the resolution pathway is indeterminate: disclosure and supervisory escalation do not guarantee access to a search arrangement corresponding to current anatomical state. Third, the supervisory escalation state exists to preserve classification framework integrity rather than to manage detainee risk. The Equality Impact Assessment does not analyse this mechanism. It identifies the consent pathway as a protective provision but does not examine the supervisory escalation state that arises when natal sex classification cannot immediately produce a compliant routing outcome.

7.5 Classification Architecture and Psychiatric Safeguarding

The guidance's constant watch provision operates within a custodial safeguarding environment. The interaction between classification architecture and that environment requires analysis at the level of institutional design rather than individual vulnerability.

Custodial search is not a neutral procedural act. It occurs within conditions of constrained liberty, under coercive institutional authority, and involves intimate bodily exposure that the detainee cannot refuse without consequence. The coercive context of detention transforms the phenomenology of search: where an equivalent exposure in a non-custodial setting might constitute a matter of personal preference or discomfort, in custody it is experienced within a framework of institutional power that forecloses meaningful exit (Crewe, 2011). The depth of custodial coercion — the accumulation of procedural impositions that compound the weight of detention beyond formal punishment — is an established dimension of custodial harm, arising from institutional design rather than individual psychology (Crewe, 2011).

Where intimate search is conducted under conditions that constitute a dignity violation — specifically, where the search pairing is determined by a classification variable that does not correspond to the present anatomy of the person being searched, and where meaningful consent is structurally constrained by the coercive context of detention — the act falls within established frameworks of institutional abuse. This characterisation is not imposed from outside the safeguarding framework. It follows from the framework's own definitions.

The Care Act 2014 statutory guidance defines sexual abuse as including non-consensual intimate bodily exposure (Department of Health and Social Care, 2023, Section 14.17). It defines organisational abuse as harm arising from institutional processes, cultures, or practices (Section 14.17). Both categories are engaged where a person is subjected to intimate exposure by officers whose assignment is determined by a classification variable that does not correspond to the person's present anatomy, under conditions in which the coercive context of detention structurally constrains refusal. The European Court of Human Rights has established directly applicable precedent in this regard: in *Wainwright v United Kingdom* (2006), the Court found that a strip search conducted without adequate procedural safeguards constituted degrading treatment contrary to Article 3 of the European Convention on Human Rights. The operative finding was not that the individuals concerned were vulnerable, but that the institutional act itself — conducted in a particular manner, under particular conditions — was the source of the violation.

The causal relationship between institutional sexual abuse in custodial settings and acute psychiatric harm is well-established in the empirical literature and runs in the direction the safeguarding framework requires: from institutional act to harm outcome, rather than from pre-existing vulnerability to elevated risk. Sexual victimisation in custody produces direct

psychological sequelae including acute distress, post-traumatic stress responses, self-harm, and suicidality, as outcomes of the institutional act itself rather than as expressions of prior psychiatric condition (Wolff et al., 2006; Struckman-Johnson & Struckman-Johnson, 2006). The elevated risk of self-harm and suicide in custodial settings is substantially attributable to institutional conditions — including procedural humiliation and coercive exposure — rather than to the importing of pre-existing psychiatric vulnerability into the custodial environment (Fazel et al., 2016).

Betrayal trauma theory establishes the specific harm mechanism operative in institutional contexts. Where harm is perpetrated by an institution on which the individual is structurally dependent and from which they cannot exit, the psychological sequelae are more severe than those arising from equivalent harm in non-institutional settings (Freyd, 1994; Smith and Freyd, 2014). Custody is precisely such a context. The detainee is structurally dependent on the institution for physical care, safety, and procedural protection. Exit is foreclosed by the coercive conditions of detention. Where the institution itself is the source of the dignity violation — through classification-driven search assignment that does not correspond to present anatomy — the conditions for betrayal trauma are structurally present, as a predictable consequence of classification architecture rather than as an exceptional outcome.

From a systems perspective, the classification architecture creates foreseeable psychiatric harm outcomes not as a function of individual vulnerability imported into the custodial encounter, but as a structurally predictable consequence of institutional design. The appropriate institutional response to this finding is not enhanced psychiatric monitoring of the affected population. It is examination of whether the classification architecture that generates the foreseeable harm can be modified to prevent it.

7.6 Disclosure, Stigma, and the Classification Burden

Classification systems that rely on historical variables not observable at the encounter impose disclosure requirements as a structural consequence of their design. This disclosure requirement has been extensively analysed in sociological literature examining institutional classification and stigma.

Goffman (1963) distinguishes between two forms of stigma-bearing identity: the *discredited* and the *discreditable*. A discredited identity is one in which the stigmatised attribute is immediately visible and known in the encounter. A discreditable identity is one in which the attribute is not visible and remains private unless disclosed. Individuals with discreditable identities retain the ability to control disclosure and therefore maintain social participation without stigma activation.

A medically transitioned woman who presents consistently in her lived gender is, in Goffman's terms, discreditable rather than discredited. Her transition history is not observable at the encounter. She is perceived and treated in accordance with her current embodiment and social role unless disclosure occurs. Her safeguarding, dignity, and institutional treatment are therefore determined by present observable conditions.

The classification framework established by the NPCC guidance introduces a structural disclosure requirement. Because natal sex classification cannot be determined through observation alone, its operational use requires disclosure of transition history or reliance on intelligence records created through prior disclosure. The classification system therefore converts a discreditable identity into a discredited one as a condition of accessing procedural accommodation.

This conversion is not an incidental feature of the guidance. It is a direct operational consequence of using a historical classification variable to govern present institutional interactions. The consent mechanism requires disclosure in order to access alternative

search arrangements. Intelligence records impose disclosure effects independently of detainee choice. Both mechanisms activate the historical classification in the encounter.

This has a specific operational consequence. The consent mechanism functions not only as a dignity-protection pathway, but also as a stigma-activation mechanism. Access to procedural accommodation is conditional on surrendering informational privacy about transition history. The protective function of non-disclosure — the ability to participate in institutional processes without stigma activation — is structurally unavailable under the classification framework.

This disclosure requirement also affects safeguarding. Safeguarding systems rely on voluntary institutional engagement by vulnerable populations. Where institutional procedures require disclosure of stigmatised historical information as a condition of accessing dignity-preserving treatment, individuals may avoid institutional engagement altogether. This effect is documented across safeguarding domains, including healthcare, social care, and violence services, where disclosure burden is associated with reduced service utilisation and increased safeguarding risk.

From a systems perspective, this disclosure requirement represents a structural property of the classification variable itself. Natal sex classification cannot function operationally without converting a historically private attribute into an active institutional determinant. The classification therefore does not operate solely as a routing variable. It operates as a disclosure-inducing mechanism within the institutional encounter.

This analysis does not assess legal permissibility. It establishes that classification systems based on historical variables that are not observable at the encounter impose disclosure requirements as a structural consequence of their design, and that those disclosure requirements interact directly with safeguarding, dignity, and institutional participation outcomes.

7.7 Classification Conflict Resolution Through Fragmented Assignment

The guidance introduces a provision not analysed in the Equality Impact Assessment: a transitioned woman may request a separate area search, in which different officers conduct searches of different body regions.

This provision represents a structural conflict-resolution mechanism within the classification system. The assignment rule requires searches to be conducted according to natal sex. However, in some encounters, the system cannot apply this rule consistently using a single officer without creating conflict. The separate-area search provision resolves this conflict by fragmenting the assignment across multiple officers rather than revising the reliance on natal sex.

The guidance introduces the possibility of fragmented assignment but does not specify the operational mechanism by which such an assignment is to be determined or implemented. It does not define how assignment boundaries are established, how officers are selected, or how fragmented assignment interacts with natal sex classification requirements. Natal sex remains the operative determinant, while procedural complexity is introduced to accommodate situations in which it cannot resolve assignment independently.

Operational resolution: A detainee's classification produces uncertainty or inconsistency in assignment. Rather than assigning a single officer based on a revised or context-sensitive determination, the system assigns multiple officers to conduct different portions of the search. This preserves formal compliance with classification requirements while operationally acknowledging that natal sex alone cannot consistently resolve assignment.

The provision therefore reveals a structural property of the classification system. When natal sex cannot function as a complete routing instrument, the system does not consider it

flawed. Instead, it introduces procedural workarounds that increase operational complexity while preserving the original classification framework.

This is a characteristic failure mode of classification systems applied outside their validated operational domain. The classification rule is preserved, and the operational burden of resolving its limitations is transferred to procedural design.

7.8 The Sex-Undetermined Provision and Consent Retraction

The guidance addresses two further operational edge cases that reveal the limits of natal sex as an observable classification variable.

On the question of a detainee whose sex cannot be determined, the guidance states:

'A conversation should be undertaken with the detainee to establish sex for the purpose of a search. If the detainee engages, act as per questions above. If the detainee will not engage, conduct the search in line with documentation or presentation until sex can be established.'

This provision is analytically significant for what it implicitly acknowledges: that natal sex, the historic classification the guidance is built on, is not always operationally available. The custody officer cannot determine it by observation. They must ask, consult documentation, or fall back on presentation — that is, the person's current appearance. When neither is available and the detainee will not engage, the guidance defaults to presentation — the observable current state the rest of the guidance has been designed to override.

This creates an internal contradiction at the heart of the guidance. The primary classification — natal sex — is maintained precisely because presentation and documentation may not reflect it. But when natal sex is operationally unavailable, the guidance falls back on natal sex classification's opposite: the observable current state it spent its entire operational framework refusing to treat as the primary variable. The classification system's last resort is the observable current state it spent its entire operational framework overriding.

On consent retraction, the guidance states that if a transitioned detainee who has consented to a search by an officer of their lived gender retracts that consent, 'the search will then need to be completed by an officer of their biological sex.' The retraction provision means that a detainee who has already disclosed their transition history, agreed to a search pairing, and then changed their mind — for any reason, including distress at the encounter — is returned to a default search by a natal-sex-matched officer. The disclosure has already occurred. The retraction does not undo it. The detainee has disclosed, the benefit has not materialised, and the classification proceeds regardless.

8. Institutional Design Failures

The scope of this analysis, set out in Section 1, commits to a specific evaluative test: whether the classification system the guidance creates performs reliably for the four institutional outcomes it claims to govern — dignity, safety, proportionality, and consistency of treatment. The population and terminology analysis in Section 2 establishes the foundational analytical premise from which this evaluation proceeds: natal sex is a historical variable being applied as a proxy for current anatomical state. For the population most affected by this guidance — people who have undergone sustained medical transition — that proxy relationship is demonstrably unreliable. The body the guidance classifies by birth record is not the body present at the encounter.

This foundational unreliability is not a marginal or exceptional condition. It is the generative condition from which all six failure modes documented in this section flow. A classification variable that does not reliably predict the operational reality it is used to govern cannot produce consistent dignity, cannot reliably identify or prevent harm, cannot satisfy a proportionality standard that requires evidence of operational effectiveness, and cannot deliver consistent treatment across a population whose material circumstances diverge from their administrative classification. Each failure mode below maps explicitly onto one or more of the four stated outcomes. These failure modes arise from internal properties of the classification architecture itself rather than from individual decision-making or implementation variance.

The following sections apply an evidence-based systems analysis to the institutional design of both documents: the guidance and the EIA that supports it. Each identifies a specific failure mode — a mechanism through which the guidance produces outcomes contrary to its stated aims, not through individual misconduct or bad faith, but through the structure of the system itself. Where the guidance document provides the operational evidence and the EIA provides the institutional framing, both are cited.

8.1 The Classification Does Not Predict What It Claims To

A classification system is reliable when it predicts the outcome it is used to govern. Natal sex classification in searching is used as the sole variable determining appropriate search pairings. As Section 4 established, this assignment relies on two possible predictive rationales — privacy and safety — neither of which is operationally specified in the guidance. Both rationales depend on the natal sex reliably predicting the physical and experiential conditions of the search encounter.

The EIA's own evidence section documents a predictive limitation for detainees who have undergone gender reassignment. The guidance acknowledges that its default classification system may produce inappropriate outcomes for this subpopulation, does not quantify the size of this subpopulation in the detainee context, and provides no mechanism for identifying when the default classification does not correspond to the detainee's current physical state other than the consent mechanism — which, as Section 5.1 established, requires disclosure under conditions that discourage it. The classification system therefore continues to assign search pairings using natal sex, whose predictive relationship to the encounter conditions is known to diverge in this population.

This predictive limitation affects both sides of the search encounter: the detainee being searched, and the officer conducting the search.

For officers who have undergone gender reassignment, the predictive limitation operates through a parallel pathway. The operational purpose of same-sex searching is to preserve dignity during intimate physical contact. This purpose depends on the actual conditions of the encounter — the officer's current physical characteristics, embodiment, and how the encounter is experienced by the detainee. Natal sex classification is used by the guidance

as the assignment variable governing which officers may conduct searches. However, natal sex classification does not itself specify the current physical or experiential conditions of the encounter. The Equality Impact Assessment acknowledges that surgical and medical transition may alter the bodily characteristics relevant to the search context, but the guidance does not modify its approach to natal sex classification in response to this divergence.

The operational consequence in both cases is the same. Natal sex classification determines search assignment using a historical fact whose relationship to the encounter conditions it is intended to regulate is neither specified nor empirically validated. The guidance therefore assumes, rather than demonstrates, that natal sex classification reliably predicts the dignity-relevant conditions of the search encounter.

Operational resolution: A transitioned woman in custody is searched by a male officer by default because the classification system identifies her natal sex as male. The officer conducting the search has no operational information about her current anatomy and no mechanism to obtain it without disclosure. The classification therefore determines the search pairing on the basis of a historical fact that is not observable in the encounter, while remaining blind to the current physical state directly relevant to the dignity rationale the classification is intended to serve.

This constitutes a direct failure of its load-bearing axiom: natal sex classification is applied as if it predicts the operational conditions governing dignity and safety in the search encounter, while neither specifying nor validating the mechanism by which that prediction holds.

8.2 The System Cannot See Its Own Failures

A further institutional design failure is that the system lacks a mechanism to detect when natal sex fails to predict the encounter conditions it is used to govern. In systems terms, this represents an observability failure — the absence of feedback signals capable of detecting classification-outcome divergence.

The EIA itself identifies four foreseeable consequences of the guidance in its August 2025 update:

- Difficulty recruiting and retaining officers who have undergone gender reassignment
- Reduced Trust and Confidence in the relevant community in policing
- Increased misinformation as media reports on the guidance
- An increase in the reporting gap as that community fears humiliation and degradation once their identity is declared

These projections recognise that the guidance may alter behaviour and institutional engagement. However, the monitoring systems described in the guidance do not include mechanisms capable of detecting or attributing these outcomes causally to the classification rule.

None of these outcomes, if they materialise, will necessarily register in the monitoring systems the guidance establishes. An officer who has undergone gender reassignment and who leaves policing will be recorded administratively as a resignation. No causal connection to the guidance will appear in institutional records unless monitoring is specifically designed to capture it. A detainee who does not invoke the consent mechanism generates no procedural signal indicating classification mismatch. A community whose confidence in policing declines appears only in aggregated trust survey data, without attribution to specific operational policies unless targeted longitudinal monitoring is conducted.

Operational resolution: Consider a transitioned woman in custody who is searched by a male officer without invoking the consent mechanism. She does not complain. The search is completed. From the institution's perspective, the encounter appears procedurally compliant:

the search was conducted in accordance with the guidance, no objection was raised, and no incident was recorded. The classification system registers this as a successful outcome. The monitoring framework records procedural compliance. The encounter is invisible to any audit or review process. The guidance cannot learn from it, because the guidance has no mechanism to detect encounters in which the classification failed silently.

In populations subject to disclosure burden, the absence of complaints is itself a predicted outcome of disclosure-dependent systems. Near-zero complaint rates cannot be assumed to indicate correct system function, but as a predictable consequence of monitoring mechanisms that rely on voluntary disclosure to generate observable signals.

The observability failure extends beyond the custody encounter itself. A transitioned woman who has experienced, or who anticipates, classification as “other” in police custody learns something about her institutional position: that the police will not treat her through the lens of a vulnerable woman. This inference is not unreasonable — the guidance communicates it structurally. The companion analysis (Wren, 2026b) documents that 20–23% of transgender people avoid institutional services due to anticipated discrimination, with prior adverse experiences increasing avoidance up to twentyfold. In healthcare and safeguarding services, this avoidance pattern is driven by the same anticipatory calculus the guidance creates.

In policing, the consequences are more serious than in elective services. Unlike a rape crisis centre, which a transitioned woman may choose not to approach, policing is reciprocal and not fully voluntary. She may need to report a crime. She may need to call for help. A transitioned woman who has inferred, from the guidance’s classification architecture, that police contact will categorise her as male — and who has reason to believe this shapes the protection she receives — is less likely to call the police as a victim, less likely to cooperate as a witness, and less likely to report crimes against herself. This is not a speculative inference: it is the structural consequence of a classification system that broadcasts, in advance, how it will treat her. The reporting gap the EIA itself names is therefore not limited to trust survey data. It operates through the pre-emptive withdrawal of a high-risk population from protective policing contact entirely.

This constitutes a failure of institutional observability: the system cannot detect when its classification ceases to function as a reliable predictive instrument — and it cannot see the population that has stopped seeking its protection.

8.3 The Adaptive Burden Is Transferred to the Individual

A core diagnostic question in safeguarding-oriented institutional design is: when a classification system encounters a situation it cannot resolve correctly, where does the adaptive burden fall — on the institution, or on the individual affected?

Under the NPCC guidance, the adaptive burden falls consistently on the individual.

When the classification system produces a search pairing that does not correspond to the detainee's current physical state, the system does not adjust. Instead, the detainee must invoke the consent mechanism to request an alternative search arrangement. If the detainee does not disclose, the default classification proceeds unchanged. The system does not detect or correct the classification mismatch.

The same structural mechanism applies to officers who have undergone gender reassignment. When natal sex classification does not correspond to the officer's current physical state or presentation, the institution does not alter natal sex classification governing search assignment. Instead, the officer must request exemption. This exemption process requires disclosure to supervisory personnel and creates operational limitations that the officer must manage. The institution preserves the classification rule and transfers responsibility for managing its consequences to the individual.

When the consent mechanism fails to produce a willing officer, no institutional escalation or corrective mechanism exists. The detainee is searched according to the default classification. The institution has discharged its procedural obligation by making the mechanism available. The operational consequence of the mechanism's failure is absorbed entirely by the detainee.

These are not isolated procedural outcomes. They are structural properties of the system's design. The classification rule remains fixed. Resolution of classification mismatch depends on individual disclosure, individual assertion, and individual willingness to absorb the risks associated with disclosure.

Safeguarding-oriented institutional design distinguishes protective systems from structurally unsafe systems by examining where adaptive burden is located. Protective systems resolve classification limitations at the institutional level. Systems that transfer adaptive burden to vulnerable individuals require those individuals to manage risks created by the classification system itself.

Under the NPCC guidance, the classification system does not adapt when predictive limitations arise. Instead, the responsibility for resolving classification mismatch is transferred to the individual affected by it.

This constitutes a failure of institutional safeguarding design: the system preserves classification stability by transferring adaptive burden to the vulnerable population it is intended to protect.

8.4 The System Reproduces the Harm It Exists to Prevent

The Gender Recognition Act 2004 was enacted precisely because disclosure of a person's transition history causes harm. Section 22 creates a criminal offence of disclosing protected information about a person's gender history when acquired in an official capacity. The legislative intent is not ambiguous: this history is private, and forced disclosure of it causes harm of sufficient seriousness to warrant criminal sanction.

The exemption mechanism in the guidance requires officers who have undergone gender reassignment to disclose that history to their supervision as a condition of accessing a basic operational accommodation. The guidance attempts to mitigate this through a multi-reason

exemption system, but this mitigation does not reliably protect informational privacy in small operational teams where the pattern of exemption over time generates inferrable disclosure.

The consent mechanism for detainees requires individuals who have undergone gender reassignment to disclose that history in custody as a condition of accessing a search arrangement consistent with their current physical reality. The vulnerability of this disclosure is heightened because it occurs in an institutional context where the individual has no meaningful capacity to manage the consequences.

Operational resolution: A transitioned woman who has lived for ten years without her history being institutionally visible enters custody. The guidance requires, as a structural condition of accessing a dignity-preserving search, that she declare her transition history to custody staff. The disclosure is not incidental to the mechanism — it is the mechanism. The Gender Recognition Act creates a right to privacy about this history precisely because its disclosure causes harm. The guidance makes access to basic operational dignity conditional on surrendering that right. The harm the legislation exists to prevent is reproduced within the guidance's own architecture, not through individual misconduct but through institutional design. This constitutes a failure of legislative coherence: the classification system requires, as the operational price of access to dignity-preserving procedures, the precise disclosure that the law creates a criminal offence to prevent.

8.5 Proportionality Is Asserted Without Evidence

The EIA's proportionality evaluation documents disadvantages that cannot be eliminated, but must proceed because it is assumed there is no other way to achieve the necessary aim. The necessary aim is defined as compliance with the legal framework following the Supreme Court's ruling. The EIA therefore establishes legal necessity, not operational proportionality.

Proportionality, properly understood as a decision function rather than a conceptual test, requires three evidential steps: specification of the harm the measure prevents, demonstration that natal sex classification predicts relevant risk better than available alternatives, and assessment of whether less harmful alternatives could achieve the same aim. None of these steps is taken in the EIA.

The harm the measure prevents is not specified. The guidance does not cite incidents in which the absence of natal sex classification in searching caused operational failures, dignity violations, or safety concerns. The EIA's evidence section documents custody statistics and notes the concern about female detainee vulnerability, but produces no evidence that the previous searching practices produced the harms the new guidance is designed to prevent.

The comparison against alternatives is not conducted. The EIA considers two approaches — the GRC-based system and the natal sex system — and selects between them on legal grounds. It does not examine approaches grounded in individual risk assessment, managed officer discretion, or searching protocols that treat transition status as one relevant factor among several. The two positions already considered are presented as if they exhaust the available options.

The evidential record on the other side is named in the EIA itself. The foreseeable consequences — officer attrition, community disengagement, the reporting gap — are identified. Their magnitude is not assessed. Their relationship to any benefit produced by the classification is not examined. Best intention is not an evidential standard for proportionality. It is a statement about motivation. This constitutes a failure of evidential proportionality: the guidance asserts that legal necessity satisfies the operational proportionality test. It does not. Legal authority establishes the institution's power to implement a classification. It does not establish that the classification achieves its stated purpose, at proportionate cost, in preference to available alternatives.

8.6 Legitimacy Feedback and Procedural Justice Effects

Institutional safeguarding systems depend not only on procedural correctness but also on institutional legitimacy. Legitimacy affects whether individuals cooperate with institutional processes, disclose relevant information, and engage with safeguarding mechanisms when vulnerable.

Procedural justice research demonstrates that perceived fairness of institutional processes is a primary determinant of institutional legitimacy. Tyler (2006) identifies four core components of procedurally just systems: neutrality of decision-making, respectful treatment, opportunity for voice, and trustworthy institutional conduct. These factors are consistently shown to predict cooperation and compliance independently of outcome favourability.

The classification architecture established by the guidance interacts directly with these procedural justice variables.

First, neutrality requires that institutional decisions be based on variables relevant to the operational conditions they govern. The guidance applies natal sex classification as the primary routing variable for search allocation, independent of present anatomical and physiological state. This introduces a visible divergence between classification variable and observable operational conditions. From the detainee's perspective, the routing decision is governed by a variable not visibly connected to the conditions of the encounter.

Second, voice requires that individuals be able to communicate relevant information affecting institutional decisions. The guidance provides a consent-based exception pathway, but access to this pathway requires disclosure of historical information and institutional agreement. The ability to influence assignment outcome is therefore contingent rather than intrinsic. Disclosure does not guarantee resolution, and supervisory escalation may occur independently of behavioural risk.

Third, respectful treatment requires that institutional procedures preserve dignity and minimise unnecessary exposure or escalation. The constant watch provision alters custodial supervisory conditions as a consequence of classification resolution constraints rather than behavioural risk. Custodial conditions therefore change as a result of classification system behaviour rather than detainee conduct.

These structural features affect institutional legitimacy at the encounter level. Procedural justice research demonstrates that perceived legitimacy influences willingness to cooperate with institutional actors, disclose relevant information, and engage with safeguarding systems (Tyler, 2006).

This interaction has system-level consequences. Safeguarding systems depend on voluntary cooperation, including disclosure of vulnerability, compliance with safeguarding procedures, and engagement with institutional actors. Where classification architecture introduces disclosure burdens, supervisory escalation unrelated to behavioural risk, and routing decisions that diverge from observable operational conditions, institutional legitimacy may be reduced in the affected population.

The Equality Impact Assessment acknowledges potential reporting and engagement gaps affecting this population but does not analyse the role of classification architecture in shaping institutional legitimacy. Procedural justice research indicates that institutional design itself influences cooperation and engagement. Classification systems therefore function not only as assignment mechanisms but as determinants of institutional legitimacy within the populations they govern.

Classification architecture interacts with procedural justice variables known to affect institutional legitimacy and safeguarding system effectiveness.

8.7 The Guidance Creates a Bidirectional Disclosure Architecture

The framing of disclosure in this guidance — and in Section 8.4 above — implies that disclosure is something the detainee performs voluntarily in exchange for access to a protective mechanism. The operational reality is more complex and more damaging in two directions simultaneously.

For the detainee, disclosure does not secure her vulnerability — it categorically degrades it. A transitioned woman who has passed without detection receives, in the default classification, a search by a male officer. If she discloses her history in order to invoke the consent mechanism and access a female-led search, she does not move from an unsafe position to a safe one. She moves from a position in which her transition history is unknown to custody staff to one in which it is known, recorded, and operational. The mechanism designed to protect her requires, as its price of entry, the precise information that makes her most institutionally vulnerable. Disclosure cannot be characterised as the means by which she secures protection; it is the means by which she confirms a classification that may further complicate her position.

Moreover, the mechanism does not depend on voluntary disclosure at all. It is frequently triggered by institutional investigation. The guidance's sex-undetermined provision acknowledges that natal sex cannot always be established from documentation or visual assessment. In practice, where uncertainty exists, the response is not to wait for voluntary disclosure but to probe: to examine the intelligence record, to read physical indicators, to question. Disclosure is not extracted in a clean transactional sense — it is often performed by the institution fishing around for evidence of transition. The detainee has no control over when this investigation begins, what it surfaces, or to whom its results are communicated. The classification is arrived at through institutional detection.

Furthermore, this process of negotiated dignity creates a state of institutional vulnerability on both sides of the interaction between the detainee and the officer relying on institutional guidance.

For the detainee, access to procedural dignity becomes conditional on revealing information that would otherwise remain irrelevant to a lawful search. Privacy ceases to be structurally protected and instead becomes a *negotiable variable*. This alters the detainee's relationship to the institution, transforming the encounter from one governed by neutral procedure to one mediated by personal exposure.

For the officers involved, the ability to opt in or out introduces *personal ownership* over the classification outcome. This creates potential exposure to perceived or actual complaint risk regardless of the decision taken. The officers are no longer acting purely as an agent executing institutional procedure, but as an individual participant in its resolution.

This structural shift has implications beyond the immediate encounter. Institutional authority relies in part on impersonality: the perception that outcomes are determined by stable procedural rules rather than personal negotiation. When classification must be actively disclosed and individually negotiated, impersonality weakens. The institution no longer appears as a neutral procedural system, but as a framework within which individuals must resolve structurally induced ambiguities.

Procedural justice research demonstrates that perceived fairness, neutrality, and respect are primary determinants of institutional legitimacy and public cooperation (Tyler, 1990; Sunshine & Tyler, 2003; Tyler, 2006). Legitimacy in this framework is not produced solely by legal compliance, but by the perception that authority is exercised through consistent, impartial, and dignity-preserving processes (Tyler, 2006).

The bidirectional disclosure architecture introduces structural conditions that weaken these legitimacy signals. The detainee's access to dignity-preserving treatment becomes

conditional rather than inherent. The officer's role becomes discretionary rather than purely procedural. The interaction becomes *contingent* rather than institutionally predetermined.

These conditions do not require hostility or misconduct to produce destabilising effects. The legitimacy impact arises from the structure itself. When institutional procedure requires participants to expose personal status in order to access ordinary procedural dignity, the interaction is experienced not as neutral administration but as conditional recognition.

The second direction of the disclosure architecture operates on the officer. When a female officer is assigned to search a male-classified individual, because the pairing is required under the guidance — this assignment is not informationally neutral. It discloses something about the officer. To the detainee, it communicates that this woman has been identified as appropriate for a non-standard search assignment — which, in a custody environment where the reason for such assignment is readily inferred, is a disclosure of her professional classification. To her colleagues, the pattern of assignment over time generates the same inference, regardless of the formal confidentiality protections the “no detriment” assurance nominally provides. The guidance produces disclosure running in both directions simultaneously: from detainee to institution, and from officer to detainee and colleagues, through the institutional mechanics of search assignment itself.

This constitutes a failure of disclosure architecture: the guidance treats disclosure as a mechanism for securing protection, when operationally it degrades the detainee's position, is frequently performed through institutional detection rather than voluntary consent, and simultaneously exposes the officer's protected history through the structure of search assignment itself.

In this way, the bidirectional disclosure mechanism introduces a structural vulnerability that extends beyond individual encounters. By displacing classification resolution from institutional procedure to interpersonal negotiation, it weakens the impersonality on which institutional legitimacy depends. Over time, this creates conditions under which formal procedural compliance may coexist with progressive erosion of perceived institutional neutrality and trust.

8.8 Role–Person Conflict and Classification-Induced Occupational Instability

The guidance introduces an asymmetry between detainee classification and officer role assignment. It establishes natal sex classification as the primary routing determinant for detainee search allocation, while simultaneously providing officers with the ability to decline participation in searches without detriment.

This exemption mechanism resolves immediate assignment conflicts operationally, but does not resolve the underlying structural incompatibility between classification architecture and officer role definition. Instead, it introduces an indefinite deferral mechanism. The classification framework continues to generate assignment requirements based on natal sex classification, while individual officers may decline participation when those assignments conflict with personal or protected characteristics.

This creates a structural condition recognised in occupational psychology as role–person conflict: a mismatch between institutional role requirements and the characteristics, identity, or constraints of the individual occupying that role (Kahn et al., 1964; Edwards and Rothbard, 1999). Role–person conflict occurs when the system requires performance of tasks that cannot be consistently fulfilled by all individuals within the role definition, given the system's own constraints and exemptions.

In this case, the institutional role of custody officer includes conducting searches as determined by natal sex. The exemption provision acknowledges that this role requirement cannot be universally fulfilled. However, the classification framework itself remains unchanged. The system therefore produces assignment conditions that are structurally incompatible with some officers' participation, while relying on individual opt-out mechanisms rather than modifying the assignment logic itself.

This creates a persistent role-definition instability. The officer remains within a professional role whose full operational scope cannot be consistently performed, while the classification system continues to generate assignments that depend on the availability of officers willing and able to fulfil them. The exemption mechanism prevents immediate coercion but does not resolve the underlying incompatibility between classification architecture and role definition.

This structural condition has recognised organisational consequences. Role–person conflict is associated with increased occupational stress, reduced job satisfaction, and increased attrition (Edwards and Rothbard, 1999). The Equality Impact Assessment identifies attrition as a foreseeable consequence of the guidance but does not analyse the structural mechanism producing it. The classification system itself creates assignment requirements that cannot be universally fulfilled, introducing persistent role-definition instability within the custody environment.

From a systems perspective, this represents a classification-induced occupational instability. The classification framework governs assignment routing, while the exemption mechanism shifts the burden of incompatibility onto individual officers. The system preserves classification architecture while adapting personnel participation to accommodate its operational limitations.

The exemption mechanism resolves individual assignment conflicts operationally but does not resolve the underlying structural incompatibility between classification routing logic and institutional role definition.

8.9 Normalisation and Institutional Drift

The failure modes identified above analyse the guidance's direct effects on the population it governs. This section identifies a further failure mode that operates indirectly, through the behavioural and institutional changes that routine implementation of natal sex classification produces over time: the erosion of the calibration on which same-sex searching rules depend.

Same-sex searching requirements exist because intimate body searches involve exposure of anatomy that triggers dignity and privacy interests, and because the sex of the searching officer relative to the detainee is understood to be operationally significant to how that exposure is experienced. The requirement encodes a calibration: male officers do not routinely search female anatomy. That calibration has institutional and behavioural dimensions. Officers internalise it through training and operational experience. It shapes how searches are authorised, supervised, and conducted.

The NPCC guidance routinely places natal-male-classified officers in searches involving female anatomy — breast tissue and, in the case of transitioned women who have undergone vaginoplasty, vulval anatomy. As this guidance is implemented at scale across 43 forces, it normalises cross-anatomical searching as an operational routine. Officers who routinely conduct such searches develop reduced sensitivity to the anatomical conditions of the encounter. The calibration that same-sex searching rules depend upon is progressively eroded by the operational practice the guidance creates.

The downstream risk extends beyond the population the guidance directly governs. A natal female detainee who presents non-conventionally — masculine build, presentation, or manner — and is misread by a rapid visual assessment as male may be searched by a male officer. That outcome has always been a risk of visual sex determination. What the guidance changes is the institutional response to that misread. An officer who has become habituated to searching female anatomy under natal sex classification is less likely to register the anatomical mismatch, less likely to pause and seek clarification, and less likely to apply the same-sex search requirement that would otherwise govern the encounter. The guidance creates conditions in which a routine same-sex searching violation against a natal female detainee becomes more likely — not through individual misconduct but through the systematic erosion of anatomical calibration that routine cross-anatomical searching produces.

This constitutes a failure of systemic integrity: the guidance introduces a classification rule whose implementation degrades, over time, the operational sensitivity that the same-sex searching framework as a whole depends upon — including for the natal female detainees the framework exists primarily to protect. The EIA does not identify this risk. It cannot, because it evaluates projected impacts on identified protected characteristics in isolation rather than examining the systemic effects of routine implementation at operational scale.

9. The EIA as Institutional Document

The Equality Impact Assessment is a classification instrument. Its structure — the selection of protected characteristics, the determination of which have impact and which do not, the construction of the evidence base, the choice of proportionality option — determines what enters the institutional record as a recognised harm and what does not. This section examines the EIA's institutional architecture: not as background to the guidance, but as part of the classification system under analysis.

9.1 The Absent Disability Connection

The EIA marks Disability as 'No' for potential impact. The August 2025 update, in the same document, states that 'there may be adverse consequences on a transgender colleague's work-related stress and decreased wellbeing due to being forced out at work.' Work-related stress and decreased wellbeing, when they cross a clinical threshold, constitute disability under the Equality Act 2010. The EIA identifies the harm and then excludes it from the protected characteristic where its legal relevance would be most significant. The same document that names the anticipated harm determines that that harm falls outside the disability characteristic. The effect is that the harm is recorded without generating the legal obligations that would follow from its formal recognition.

9.2 The Exemption Paradox

The EIA correctly identifies significant negative impacts on the Gender Reassignment protected characteristic, including the disclosure risk and the psychological consequences of being required to search contrary to current physical state. These are appropriately recorded.

What the EIA does not examine is the structural relationship between the exercise of the protected characteristic and the operational problem it generates. Under the guidance, gender reassignment — the protected characteristic — is precisely what creates the classification divergence that the exemption mechanism is designed to manage. An officer who has undergone gender reassignment and lives in their lived gender finds that the exercise of their protected characteristic is itself the source of the operational difficulty. The protection creates the exposure it is meant to protect against.

This is a structural feature of applying a natal sex classification to a population defined by the divergence between their natal sex and their current state. The EIA records it as a harm to be managed. It is a design flaw that should call natal sex classification's operational validity into question.

9.3 The Evidence Base

The EIA's evidence sections are populated almost entirely with custody and stop-and-search statistics. They establish the demographic profile of searching: who is searched, at what rate, in what circumstances. This is not without value for contextualising the scale of the operational domain.

What the evidence sections do not contain is:

- Any data on incidents involving officers who have undergone gender reassignment in search encounters
- Any evidence that inclusive searching practices under previous approaches produced operational failures
- Any research on the psychological impact of disclosure obligations on officers in this position

- Any evidence on the experience of detainees who have undergone gender reassignment in custody
- Any data from comparable jurisdictions on the operational outcomes of different search classification approaches.

The one comparative reference — Border Force and HMPPS deploying such officers in line with legal sex — is cited without outcome data. The institutional practice is noted. Whether it has produced better or worse outcomes than alternatives is not examined.

The EIA's evidence base establishes statistical context for a guidance whose classification choice is not evidentially derived from that context. The custody statistics do not point toward natal sex classification rather than alternatives. **The classification decision is made on legal grounds, and the evidence base is assembled around it rather than preceding it.**

9.4 What the EIA Cannot See

Training implications

The EIA does not address the training implications for the population the guidance governs. An EIP search of a transitioned woman who has undergone vaginoplasty requires an officer to visually examine a vulva, and — in searches where concealment of an article is suspected — to manage breast tissue as part of that examination. Neither of these tasks is part of standard search training for male officers, whose training framework does not address the examination of female anatomy. The guidance and EIA are silent on training requirements, training gaps, or the operational protocols an officer should apply when searching anatomy their training does not address. The classification framework may place officers in encounters involving anatomy they do not routinely encounter within standard same-sex search protocols, without specific procedural guidance addressing such scenarios.

The institutional act as harm source

The EIA acknowledges dignity risks arising from the classification system but does not assess the psychiatric harm generated by the institutional act itself. This omission is analytically significant because the causal direction runs from institution to individual rather than the reverse: it is the act of intimate search under conditions of classification mismatch and constrained liberty that produces foreseeable psychiatric harm, not pre-existing individual vulnerability imported into the custodial encounter.

Custodial search is not a neutral procedural act. It occurs under conditions of constrained liberty, under coercive institutional authority, and involves intimate bodily exposure that cannot be refused without consequence. The coercive context of detention transforms the phenomenology of search: the power asymmetry of custody forecloses meaningful exit and renders the detainee structurally dependent on the institution for protection from the harms that institution is simultaneously capable of producing (Crewe, 2011). Where intimate search is conducted by officers whose assignment is determined by a classification variable that does not correspond to the present anatomy of the person being searched, the act falls within established safeguarding harm categories. The Care Act 2014 statutory guidance defines sexual abuse as including non-consensual intimate bodily exposure, and organisational abuse as harm arising from institutional processes and practices (Department of Health and Social Care, 2023, Section 14.17). Both categories are engaged where classification-driven assignment produces intimate exposure inconsistent with present anatomical reality under conditions in which the coercive context of detention structurally constrains refusal.

The European Court of Human Rights established directly applicable precedent in *Wainwright v United Kingdom* (2006), finding that a strip search conducted without adequate procedural safeguards constituted degrading treatment contrary to Article 3 of the European

Convention on Human Rights. The operative finding was not that the individuals concerned carried particular vulnerability into the encounter. It was that the institutional act itself — conducted in a particular manner, under particular conditions — was the source of the violation. The same analytical logic applies here: the harm arises from classification architecture, not from the characteristics of the person subjected to it.

The empirical literature on sexual victimisation in custodial settings establishes the causal pathway from institutional act to psychiatric harm outcome. Sexual victimisation in custody produces direct psychological sequelae — including acute distress, post-traumatic stress responses, self-harm, and suicidality — as consequences of the institutional encounter rather than as expressions of prior condition (Wolff et al., 2006; Struckman-Johnson & Struckman-Johnson, 2006). The elevated incidence of self-harm and suicide in custodial settings is substantially attributable to institutional conditions, including procedural humiliation and coercive intimate exposure, rather than to the importing of pre-existing psychiatric states into the custodial environment (Fazel et al., 2016).

Betrayal trauma theory identifies the specific harm mechanism operative where institutional harm occurs within conditions of structural dependency and foreclosed exit. Where an institution on which an individual is structurally dependent is itself the source of the harm, the psychological sequelae are more severe than those arising from equivalent harm in contexts where exit remains available (Freyd, 1994; Smith and Freyd, 2014). Custody is precisely such a context. The detainee cannot exit. The institution that searches her is the same institution responsible for her care and safety. Where the institutional act constitutes a dignity violation — through classification-driven assignment that does not correspond to present anatomy — the conditions for institutional betrayal trauma are structurally present as a predictable consequence of classification design.

The EIA does not contain this analysis. It recognises that classification architecture produces psychiatric harm in officers — noting anticipated work-related stress and decreased wellbeing — but applies no equivalent analysis to detainees, for whom the conditions of exposure are more acute, the power differential more pronounced, and the capacity for exit foreclosed entirely. An impact assessment that identifies foreseeable psychiatric harm arising from classification architecture for one participant in the search encounter while omitting equivalent assessment for the other is not functioning as a complete safeguarding instrument.

Monitoring blindness

A further structural limitation is the EIA's invisibility to harms produced through disengagement rather than complaint. The EIA identifies reduced community confidence and an increased reporting gap as foreseeable consequences of the guidance but does not examine how these outcomes would register in available monitoring systems. Community confidence appears in trust surveys; the reporting gap appears in crime reporting rates. Neither data stream will be causally attributed to this guidance without longitudinal, guidance-specific monitoring that the EIA does not establish.

The harms most likely to be severe — an officer leaving policing to avoid disclosure, a detainee not invoking the consent mechanism and accepting a search they experience as a dignity violation, a community member not reporting a crime because they do not trust what happens in custody — are harms that produce silence. They are the absence of a data point rather than the presence of one. An impact assessment framework that evaluates observable impacts against recorded metrics will be systematically blind to the most significant effects of a guidance whose primary harms are produced through avoidance rather than confrontation.

The companion analysis (Wren, 2026b) terms this monitoring blindness: the self-reinforcing cycle in which harm produces disengagement, disengagement produces data absence, and data absence is interpreted as evidence that the system is functioning correctly. The

mechanism is structural and transfers to any institutional setting where the affected population has rational grounds to disengage rather than complain.

9.5 Single-Axis Impact Modelling and Intersectional Safeguarding Risk

The Equality Impact Assessment evaluates the guidance primarily through the lens of a single protected characteristic: gender reassignment. This reflects the statutory requirement to consider impacts on protected characteristics individually. However, custodial safeguarding operates in a multi-variable environment in which vulnerability and risk arise from the interaction of multiple characteristics simultaneously.

Safeguarding assessment under the Care Act 2014 statutory framework explicitly requires evaluation of the adult's individual circumstances, including physical condition, psychological state, disability, communication needs, and situational vulnerability (Department of Health and Social Care, 2023, Section 14.34). These safeguarding variables do not operate independently. They interact to determine overall vulnerability within the custodial encounter.

The classification framework established by the guidance operates within this multi-variable safeguarding environment. Its effects are not limited to gender reassignment status in isolation. Classification resolution mechanisms — including disclosure requirements, supervisory escalation pathways, and consent-based exception processes — interact with other safeguarding-relevant variables, including mental health vulnerability, disability, language barriers, prior trauma, and custodial unfamiliarity.

Where multiple safeguarding vulnerabilities are present, classification-induced procedural escalation may produce compounding effects. A detainee experiencing mental health crisis, communication barriers, or prior trauma may experience increased psychological distress arising from classification resolution procedures. Supervisory escalation mechanisms such as constant watch alter custodial conditions in ways that interact with rather than operate independently of existing vulnerabilities.

The Equality Impact Assessment evaluates the classification framework through a single-axis model in which gender reassignment status is considered independently of other safeguarding variables. This modelling approach reflects statutory equality assessment requirements but does not fully capture the interaction between classification architecture and the broader safeguarding environment in which it operates.

This represents a structural limitation of single-axis impact modelling. Classification systems operate within complex institutional environments where multiple safeguarding variables interact simultaneously. Impact assessments that evaluate classification effects through a single protected characteristic axis may not capture compound safeguarding interactions arising from classification system behaviour. Intersectional analysis (Crenshaw, 1989) considers compounding element within an EIA framework. The operational effects of classification architecture must be understood in relation to the full safeguarding environment in which it operates, including the interaction between classification variables and the other vulnerability factors recognised within statutory safeguarding frameworks.

10. Conclusion

The NPCC Interim Transgender Search Guidance is a legally responsive document produced by an institution navigating complex operational and legal terrain. The accompanying Equality Impact Assessment is more candid about its limitations than comparable documents in this policy space: it acknowledges foreseeable consequences, records the guidance as a living document, and recognises the need for ongoing institutional review. These are important institutional safeguards.

This analysis does not contest the legal framework within which the guidance operates. It evaluates whether the institutional design functions as a reliable operational instrument for achieving its four stated aims: dignity, safety, proportionality, and consistency of treatment.

The finding of this analysis is that, as currently structured, it does not. The guidance exhibits nine structural institutional design failures:

1. Predictive Failure: Natal sex — a historical observation recorded at birth — is applied as if it were a contemporaneous descriptor of the person present at the search encounter, without establishing that this historical observation reliably corresponds to present operational conditions. Where current anatomical, physiological, and social embodiment diverge from birth record, the historical observation does not reliably describe the operational reality of the encounter.

2. Observability Failure: The monitoring framework measures procedural compliance with the historical classification rule, not whether the historical observation correctly corresponds to the person present at the encounter. Where the historical observation diverges from current state but no procedural exception is invoked, the classification failure remains invisible to institutional monitoring.

3. Burden Transfer: Where historical record and operational reality diverge, the system does not adapt its decision-making framework. Instead, responsibility for resolving the divergence is transferred to individuals through disclosure requirements, exemption requests, or acceptance of assignment determined by historical record. The system preserves the historical observation as authoritative while requiring individuals to manage the consequences of its predictive limitations.

4. Resolution Failure: The system provides no reliable institutional mechanism for resolving divergence between historical observation and present operational reality once it arises. Assignment decisions may be determined by intelligence records, visual inference, or disclosure pathways operating independently of each other, producing inconsistent operational outcomes.

5. Disclosure Architecture: The guidance creates a bidirectional disclosure structure in which access to search arrangements corresponding to present embodiment requires disclosure of protected historical information, while assignment patterns simultaneously expose officers' protected histories through operational deployment. Disclosure is not incidental to system operation; it is structurally embedded within it.

6. Monitoring Blindness: The system cannot detect harms arising from its own classification architecture when those harms manifest through disengagement rather than complaint. Withdrawal from police contact, reduced reporting of crime, and officer attrition occur outside the system's monitoring visibility, creating the appearance of compliance while safeguarding reliability is structurally degraded.

7. Legitimacy Failure: The classification architecture degrades institutional legitimacy through procedural justice failures: classification decisions are governed by a variable not visibly connected to encounter conditions; access to alternative search arrangements is contingent rather than intrinsic; and custodial conditions change as a result of classification system behaviour rather than detainee conduct. These structural features reduce

cooperation, disclosure, and engagement with safeguarding mechanisms in the affected population.

8. Role–Person Conflict: The classification framework generates assignment requirements that cannot be universally fulfilled, creating a persistent structural incompatibility between role definition and individual participation for officers who have undergone gender reassignment. The exemption mechanism resolves individual conflicts operationally but does not resolve the underlying incompatibility, producing classification-induced occupational instability and contributing to the attrition the EIA itself identifies as a foreseeable consequence.

9. Normalisation and Systemic Drift: Routine implementation of natal sex classification across 43 forces normalises cross-anatomical searching as an operational procedure, progressively eroding the anatomical calibration on which same-sex searching rules depend. Over time, this increases the risk of searching violations against natal female detainees through habituation rather than misconduct. The EIA cannot identify this risk because it evaluates projected impacts on identified protected characteristics in isolation rather than examining the systemic effects of routine implementation at operational scale.

Mapped against the four stated institutional outcomes, the guidance fails to deliver:

Dignity: The guidance applies a historical observation as the operative determinant of search assignment even where that observation does not correspond to present embodiment. The mechanism intended to preserve dignity instead requires disclosure of protected historical information in order to access assignment corresponding to current operational reality.

Safety: Safeguarding depends on accurate understanding of the person present at the operational encounter. Where institutional decision-making relies on historical observations that may no longer correspond to current embodiment or vulnerability, safeguarding reliability is structurally degraded. A system whose operation is legible to affected populations in advance, and which those populations have rational grounds to avoid, does not deliver safety. It reduces institutional accessibility to safeguarding protection.

Proportionality: The Equality Impact Assessment establishes legal necessity but does not demonstrate operational validity. It does not show that natal sex, as a historical observation, reliably predicts operational risk better than alternative approaches, nor that its application improves safeguarding outcomes relative to less intrusive or more operationally accurate decision frameworks.

Consistency: Natal sex, as a historical observation, cannot be directly observed at the encounter and must instead be inferred, disclosed, or retrieved from historical records. This produces inconsistent operational outcomes depending on data availability, officer interpretation, and disclosure occurrence.

These are not failures of implementation. They are structural properties of the institutional design itself. Where institutional decision-making relies on historical observations that do not reliably correspond to present operational reality in domains affecting liberty, bodily privacy, and safeguarding, unmanaged operational risk is created. The system cannot internally detect or correct these failures because its monitoring framework measures procedural compliance rather than predictive validity.

Legal authority determines whether a historical observation may be adopted as an administrative classification. Systems analysis evaluates whether that classification functions reliably once implemented as an operational decision variable. Legal authority does not determine whether that observation functions reliably as an operational instrument once applied forward in time. These are analytically distinct questions. A historical observation may be legally authorised yet still exhibit predictive, observability, and safeguarding failures when used to govern present operational encounters. Where this occurs, institutional

responsibility extends beyond legal compliance to ensuring that operational decision-making frameworks function reliably in practice and do not introduce unmanaged safeguarding risks as a consequence of their design.

Where natal sex classification is applied despite acknowledged uncertainty regarding its predictive correspondence to the operational conditions of the search encounter, and without empirical validation demonstrating its safeguarding effectiveness, the classification functions as a legally defined administrative rule whose operational reliability has not been established within the domain it governs.

Because proportionality requires evidence that a measure reliably achieves its stated operational aims, the absence of predictive validation prevents proportionality from being fully evaluated in operational terms.

The institution has implemented a classification rule based on historical record in response to legal obligation. The operational consequences of that decision are not abstract. They are experienced in custody suites, roadside encounters, and operational deployments where present embodiment, institutional procedure, and historical record intersect under conditions of constrained agency.

Although designated "interim," the guidance functions as the operative classification system governing police searches at the time of writing. Interim implementation establishes operational norms immediately, independent of eventual legal or policy finalisation: officers adapt their practice, monitoring systems establish baseline expectations, and affected populations adjust their engagement accordingly. These operational consequences arise independent of finalisation and cannot be assumed to be reversible.

International human rights and institutional oversight frameworks recognise classification systems that create disclosure dependency as a category of structural safeguarding concern, particularly where classification variables may diverge from operational reality and where affected populations have rational grounds to avoid institutional contact. The operational mechanisms documented in this analysis — disclosure dependency, predictive correspondence limitations, observability constraints, and monitoring blindness — correspond directly to structural features recognised in institutional systems analysis as capable of generating unmanaged safeguarding risk. This analysis makes no broader claim. It records that the operational properties of this classification system are legible within established institutional risk frameworks, and that their presence within this classification system is now formally documented within the institutional and governance record.

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