

WILTSHIRE POLICE



INTERIM TRANSGENDER EQUALITY GUIDANCE FOR CUSTODY AND SEARCHES

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1. INTRODUCTION.

Transgender is an umbrella term to embrace a wide variety of gender expressions. It includes people who intend to undergo, are undergoing or have undergone a permanent change of gender, as well as those who have no intention of permanently changing their gender, or those who do not identify as either a man or a woman.

According to the Equality Act the medical term for those who have undergone, or are undergoing, a permanent change of gender is transsexual. Best practice is to ask the individual which term(s) they prefer.

A transition is the process or journey of an individual from one perceived gender identity to another/others. It should be noted that there is no specific time scale for a transition. It neither has to be permanent or irreversible and the objective may change at any time. The process for transitioning can, and often does, take many years and may or may not involve some form of medical intervention or procedures.

Some people believe themselves to be non-binary or fluid with regard to gender. The terms non-binary and gender-fluid are often used to describe persons who identify as male or female (or a combination of both) at different times or in different situations. Others may believe that they don't want to be identified by any gender, i.e. agendered or gender neutral.

It is also important that each member of staff who identifies as transgender is dealt with on an individual basis and reasonable adjustments are considered to accommodate their individual status and needs. It is recognised that the perceived gender or appearance may change and that person will be protected regardless of whether they fall within the current scope of the Equality Act.

Wiltshire Police actively supports and promotes inclusion and equality and will not discriminate on the basis of gender identity, gender expression or gender presentation. Everyone who works with or comes into contact with Wiltshire Police will be treated with dignity and respect.

This guidance refers to 'trans and non-binary' to include a wide range of people whose gender identity is not the same as the gender assigned at birth and includes those who have non-binary, non-gender or gender-fluid identities.

This guidance specifically addresses those situations where individuals who identify as trans and non-binary are subject to detention in police custody and searches. It also includes guidance for officers and staff charged with their welfare and conducting searches, including where they themselves may identify as trans or non-binary.

Gender reassignment is a protected characteristic under the Equality Act 2010.

2. CONFIDENTIALITY.

Information that comes into the possession of a staff member, which includes information about their colleagues, should be treated confidentially. The information will not be shared with third parties, except in the proper course of police duty, i.e. where it would assist with the prevention or investigation of a crime, or where it is required by a court or a tribunal.

Breaches of confidentiality will be treated in the same manner as disclosure of personal details of any other member of staff.

In addition to the above, section 22 of the Gender Recognition Act 2004 makes unauthorised disclosure of a person's gender identity or history to any person outside the organisation a criminal offence.

3. DEALING WITH THE MEDIA.

In the interests of confidentiality, the name and specific post of the individual must not be revealed in media enquiries. As outlined in section 2 (above), section 22 of the Gender Recognition Act 2004 makes disclosure of 'protected information' in certain circumstances a criminal offence. In addition, access to information within social media must be considered.

If the identity of the individual becomes known to the media, and this of a concern to the individual, then they must discuss this with Corporate Communications as soon as possible.

4. PRACTICAL POLICING GUIDANCE NOTES.

These notes should be read in conjunction with:

- a. PACE codes of practice on searching detained persons
- b. [Authorised Professional Practice on Detention and Custody](#).
- c. NPCC Interim Guidance on Transgender Searches dated May 2025

The overriding principles involve maintaining people's dignity and treating everyone with respect and sensitivity at a time where most people will feel particularly vulnerable. It will always remain good practice to explain the custody and search processes and enquire into and consider a range of options that can be implemented to minimise the embarrassment for all persons concerned being cognisant of the importance of safety and security.

Wiltshire Police acknowledge their role and presence within the community and the importance of maintaining trust and confidence and are fully supportive in promoting and supporting gender identity equality.

4.1 Legal and Human Rights

A landmark UK Supreme Court ruling in April 2025 concerning the legal definitions of sex and gender in the context of the Equality Act 2010¹, the Supreme Court unanimously held that the terms "woman" and "man" in the Equality Act refer to biological sex, not gender identity or acquired gender.

This means that transgender, non-binary and individuals proposing to undergo, undergoing, or who have undergone a process of reassigning their sex, are explicitly protected from discrimination and harassment under the Equality Act 2010 through the protected characteristic of gender reassignment.

An individual may hold a Gender Recognition Certificate (GRC)², this means the law recognises them in their acquired gender for marriage, pensions and privacy rights. Officers must never ask someone if they have a GRC, that is private and protected information. However, such information may be recorded in custody records and used for the prevention or investigation of crime. Search decisions must be based on the guidance in this policy, not on guesses about a person's legal gender status.

¹ Women Scotland v. Lord Advocate (2025)

² Under the Gender Recognition Act 2004.

Wiltshire Police is committed to treating everyone fairly and respectfully, including recognising peoples legal rights and privacy.

4.2 Searching

The Police and Criminal Evidence Act 1984 states that stop searches that go no further than the outer clothing can be conducted by people of either sex; therefore, there are no restrictions on Transgender individuals conducting such searches.

As an interim measure,³ and following legal advice and engagement, searches exposing intimate parts (EIP) or more thorough searches will be carried out in accordance with PACE, which states that these searches must be conducted with officers of the same biological sex as the person being searched. This includes someone who volunteers that they have a GRC.

This replaces and overrules the previous Wiltshire Police policy dated September 2024.

The guidance below specifically addresses those situations where individuals who identify as trans and non-binary are subject to detention in police custody and searches. It also includes guidance for officers and staff charged with their welfare and conducting searches including where they themselves may identify as trans or non-binary.

4.3 Trans and Non-Binary Police Officers / Staff Involved in Searching

Wiltshire Police has adopted the NPCC interim guidance for Transgender searches. This means that a Police Officer/Staff will be authorised to carry out searches of persons as outlined here:

- a. **Stop/Search, Jacket, Outer Garment and Gloves (JOG):** Officer of any sex can search a detainee of any sex.
- b. **More Thorough Search (more than JOG) but not revealing intimate parts:** Officer must be the same biological sex as the person being searched unless only headgear or footwear is removed.
- c. **Stop & Search EIP:** Officer must be the same biological sex as the person being searched
- d. **Strip Search in Custody following arrest:** Officer must be the same biological sex as the detainee.

4.4 Voluntary Participation Police Officers/Staff involved in searching

No officer or staff member is forced to conduct a search against their will. Any officer may refuse to carry out a search for any personal or professional reason. This includes (but is not limited to) situations where an officer feels that conducting a search in line with their biological sex would conflict with their gender identity. The NPCC guidance explicitly allows such refusals and guarantees that there will be no career detriment to the officer who declines. Wiltshire Police fully upholds this principle – an officer's decision to opt out of a particular search will not negatively affect performance reviews, assignments, or career progression.

Managers must ensure that this principle is upheld at all times, and no undue pressure is placed on an officer who exercises the right to refuse. Any attempt to penalise an officer for such a refusal will be treated as misconduct.

Police officers and Staff should refer to the Adjusted Duties Policy which includes a confidential passport process to support and protect the identity of trans people. This ensures consistency, privacy and dignity across roles and teams.

³ This policy will be reviewed inline with PACE and NPCC guidance

The force's stance is that officer welfare and rights are as important as detainee rights – we seek solutions that uphold the dignity of all parties. If any officer feels they have suffered detriment or discrimination related to search assignments or refusals, they are encouraged to report it immediately for investigation.

4.5 Trans / Non-Binary Persons Detained to be Searched.

Wiltshire Police is committed to treating all detainees with dignity, we respect the identity of transgender and non-binary persons. When speaking with a person in custody, officers and staff should use the name, pronouns, and gender identity that person uses, regardless of biological sex. This helps build trust, reduces distress, and shows our commitment to fair and inclusive policing.

Officers must never assume a person's gender or gender identity. Early sensitive conversation is encouraged where there is any doubt about a person's gender or gender identification to avoid embarrassment. For a person who has applied for, and/or possesses a Gender Recognition Certificate (GRC), information concerning their gender history is protected and it is an offence to disclose this.

4.6 Determining Detainee's Sex for Search Purposes

Where a more thorough search is conducted the detainee will be searched in accordance with their biological sex. In most cases a detainee's sex is known from documentation or self-identification.

However, if the biological sex of a detainee is unclear or disputed, officers will handle the situation with sensitivity. The custody officer should have a private conversation with the detainee to establish their sex for search purposes. The individual can be asked simple, respectful questions to clarify what their biological sex is (if they are willing to discuss). At no point is an individual to be asked about their treatment or surgeries.

If the detainee will not engage or refuses to declare this information, staff may refer to any available documentation (e.g. ID, custody records) or, if absolutely necessary, make a judgement based on the person's physical presentation. The guiding principle is to never assume when unclear – always attempt to clarify through dialogue. Once the sex is established (or provisionally determined due to non-cooperation), proceed with the search according to this guidance. Any such cases must be logged and later reviewed to ensure the approach was appropriate.

4.7 Right to Request Search based on Gender

A transgender or non-binary detainee may request to be searched by an officer of a particular gender (for example, in accordance with their lived gender). The custody officer will consider such requests seriously. Limited exceptions to the standard procedure are permitted on a consensual basis: any search that is not conducted in line with biological sex requires prior written consent of all parties – the detainee, the officer who would conduct the search, and an authorising inspector. This means:

- a) The detainee must agree in writing to the alternate arrangement (affirming it is their request/consent).
- b) The officer who will conduct the search must also willingly consent in writing.
- c) A supervising officer of appropriate rank (Inspector) must review the plan, assess any risks, and give written authorisation for the deviation.
- d) If at any point of the process a person's request is refused the authority for refusal remains with an Inspector and must be recorded along with a justification.

These steps ensure that everyone involved is protected and in agreement. The request should be made within a reasonable time of detention. The authorising officer will record the justification and conditions for approval.

4.8 Juveniles

Intimate Searches

An intimate search of a child or young person may take place only in the presence of an appropriate adult of the same sex, unless the child/young person expressly asks for an appropriate adult of the opposite sex, who is readily available. The search may take place in the absence of the appropriate adult if the juvenile specifically requests this, provided the appropriate adult is present when the request is made and the adult agrees. The decision should be recorded and signed by the appropriate adult.

Strip search (search involving the removal of more than outer clothing)

Unless there is risk of serious harm to the child/young person or another, an appropriate adult must be present for a strip search if it involves exposure of intimate body parts. It can only take place in the absence of the appropriate adult if the child/young person has specifically requested this and the adult agrees. The decision should be recorded and signed by the appropriate adult.

5. Practical application

The decision on searches in custody will normally sit with the custody sergeant, in the case of a search whereby the individual is requesting an exemption from this policy the authority is an Inspector. All decisions should be recorded in the custody record.

The personal safety of all involved remains the principal objective.

Any search that has the potential to result in assault or injury, either because of the individuals concerned or for any reason that suggests the officer conducting the search might be at risk, steps should be taken where appropriate to reduce that risk by using different staff.

However, the final decision taking account of the unique circumstances of each case will rest with the custody sergeant who should ensure that all details informing the decision are outlined to those involved and recorded in the custody record.

Trans and non-binary individuals should be provided with single occupancy cells.

SUMMARY

This is interim guidance which should be adopted immediately. This guidance will be updated in line with PACE and NPCC or the by the next review date whichever is the soonest.

Our overriding principle is that we treat everyone with dignity, respect, and sensitivity:

- a. Use the person's chosen name and pronouns regardless of biological sex.
- b. Thorough police searches should be carried out by police officers and staff of the same biological sex as the detained person.

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- c. A detainee can request a search based on gender, and we will endeavour to accommodate such requests where this is operationally viable.
 - d. Never ask about a Gender Recognition Certificate, treatment or surgeries.
 - e. Officers/Staff can decline to conduct a search without fear of detriment.
 - f. Record rationale to support decision making and invite involved persons to sign custody record.

If there is a question about the gender of an individual about to be searched, Code C of PACE indicates that sensitive enquiries including asking about lifestyle and preference should be undertaken: