

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

As an interim measure and following extensive legal advice and engagement, police will undertake searches exposing intimate parts (EIP) or more thorough searches in accordance with PACE which states that these searches must be conducted with officers of the same biological sex as the person being searched.

Policing remains committed to serving all members of the public with fairness, dignity, and respect, including the Trans community. The police have a duty to respect Article 8 rights. Therefore, as far as operationally viable, where an individual whose lived in gender is not the same as their biological sex expresses a preference to be searched by an officer of their lived gender, efforts will be made to ensure an appropriate officer is identified to conduct the search. In such circumstances, the search would require the written consent of the authorising officer, the person detained and the particular officer/s conducting the search.

Additional Information

Who will a trans officer search?

A trans officer will search in line with biological sex.

Can a trans officer or member of staff be exempt from searching?

A trans officer can be exempt from searching. There will be no career detriment to the officer or member of staff.

Will a trans officer be given a lawful order to search?

No

Can a transgender officer search a detainee not of the same biological sex if the detainee agrees?

No - 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.

Can a transgender officer search a trans detainee?

Yes if both the officer and the detainee are of the same sex this complies with the interim guidance. If the officer and the detainee are of different biological sexes, both the officer and the detainee would need to consent with the search.

Can a detainee refuse to be searched by a trans officer?

Yes as is current operational practice officers will be swapped out if a detainee refuses the search by a trans officer.

Can an officer or member of staff refuse to search a trans detainee?

Yes and there will be no career detriment to the officer or member of staff.

Can a lawful order be given to search a trans detainee?

No

What if a trans detainee consents to the search by an officer of their lived gender but then retracts consent?

The search will then need to be completed by an officer of their biological sex.

Can a trans detainee ask for a separate area search depending on anatomical presentation?

Yes a trans detainee can ask for a separate area search. (One half of their body to be searched by one biological sex officer and the other half of their body to be searched by a different biological sex officer.)

What if a trans detainee wants to be searched in line with lived gender but no officer can be found who is willing to conduct the search?

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.

What if the sex of the detainee cannot be determined?

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.

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