

## Trans and Non-Binary People

### Contents

---

Policy Statement .....	2
Principles.....	2
Responsibilities – Supporting Trans and Non-Binary Individuals.....	3
Line Manager .....	3
People Services .....	4
Responsibilities – Trans and Non-Binary Members of the Public .....	5
Individuals .....	5
Searching and Detention.....	5
Updating Police Systems .....	7
Additional Information.....	8

---

**IMPORTANT**

This policy has undergone a revision prompted by the removal of NPCC guidance on Searching by Trans Employees of the Police Force. Whilst new guidance from NPCC is expected soon, which includes additional legal advice and further consultation, this interim guidance serves to provide clarity on relevant legislation and processes relating to trans and non-binary people.

## Policy Statement

**Summary**

West Yorkshire Police are committed to promoting the principles of equality, diversity, inclusion and human rights in all areas of policing. We are committed to ensuring that all individuals have the right to be treated fairly and with respect whenever they may come into contact with the police. We do not discriminate on the grounds of gender identity, gender expression or gender presentation (which includes gender critical beliefs), treating everyone with dignity and respect.

West Yorkshire Police has a 'zero tolerance' approach to bullying and harassment in the workplace. This includes any harassment or targeted treatment because of a person's gender identity or expression.

Where this policy refers to 'trans and non-binary' it has in mind a broad range of people whose gender identity is not expressed in ways that are typically associated with sex assigned at their birth and includes those who have non-binary, non-gender or gender-fluid identities. This also extends to when dealing with people who identify as trans and non-binary who are subject to detention and/or searches, and the circumstances where name/gender are updated on police systems. A full list of definitions and glossary of terms is available in the supporting information.

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

**Scope**

This policy applies to all police officers, police staff, special constables, volunteers and contractors working on police premises, and people who are victims, witnesses, subject to a legal procedure and those who are in custody.

## Principles

**General**

- All trans and non-binary people will be dealt with respectfully and in accordance with the WYP purpose, values and Code of Ethics.
  - The focus of this policy is the individual police officer, staff member or member of the public.
  - The Force supports individuals who are trans and non-binary, supporting those transitioning by offering and developing a support plan with the individual, which will allow individual choices as to how they wish the process to be managed in the workplace.
  - Any issues relating to the identity of trans and non-binary officers, staff and members of the public will be dealt with confidentially.
  - Individuals must refer to PACE Code C, Annex L, which details establishing gender identity to maintain dignity, minimise embarrassment and secure co-operation.
- 

**Disclosure**

- When an individual has made an application under the Gender Recognition Act 2004 (GRA) to obtain a new birth certificate, section 22 of the GRA establishes it is an offence for a person to disclose protected information acquired in an official capacity to any other person (exceptions apply).
  - '*Protected information*' is any information relating to:
    - Their application for a Gender Recognition Certificate; or
    - The gender history of a successful applicant.
  - Consent must be obtained on each and every occasion.
  - For vetting purposes for new employees, all previous names must be disclosed by the individual subject to the vetting process, including those which reveal that they have been through transition.
  - Any disclosed information is managed as protected information and is not disclosable to any other parties without explicit written permission from the owner of the protected information.
  - West Yorkshire Police acknowledges its legitimate aim for requesting disclosure and its legal obligations under these requirements.
- 

## Responsibilities – Supporting Trans and Non-Binary Individuals

---

**General**

- The responsibilities of line managers and the People Directorate can be interchangeable dependant on the choice of the individual. Therefore, these responsibilities may be duplicated in this policy. It is important to ensure that all responsibilities are agreed in the support plan.
  - Support can be provided to line managers and People Directorate staff via the DEI team.
- 

## Line Manager

---

**Individuals considering transitioning or disclosing their trans identity**

- The term 'trans' is an umbrella term which can include people who identify as men, women and people who have non-binary, non-gender or gender-fluid identities.
  - Transitioning is a term used to describe the process and steps a person may take in order to live in the gender they identify as. Transitioning is a unique process for each person and may include any number of changes to their life. It may be social and/or medical and is not time limited.
  - Where an individual discloses either their trans identity or their intention to transition, the line manager is responsible for:
    - Offering and holding a confidential face-to-face meeting to discuss and agree an individual support plan which considers how they may want to manage their transition, what they want to change and what support they might need in the workplace. The meeting can also be an opportunity to talk about any concerns or worries that they may have about disclosing their gender identity and to discuss any time off work they may require (e.g. for treatment, medical appointments and/or counselling), and also any operational concerns they may have, for example undertaking person searches. The support plan must remain in place for as long as it is needed and is helpful.
    - A risk assessment must be undertaken, regularly reviewed and accompany the support plan on the individual's personal file.
  - Under no circumstances must a line manager pass information to any other person inside or outside the organisation without the person's explicit consent.
  - Disclosing any information about a person's trans status without their consent may result in disciplinary action being taken. In some instances, disclosing information without consent may constitute a criminal offence.
- 

## People Services

---

**Responsibilities**

People Services are responsible for:

- Ensuring an offer to complete the support plan with the employee where this has not taken place with the line manager;
- Ensuring that any paper or electronic records that refer to any previous name or gender identity are protected and correctly stored;
- Ensuring password protection and restricted access to any current electronic documents, where appropriate;
- Ensuring appropriate support is given to both the person and the line manager throughout the identified processes and further;
- If agreed, allocating a named Employee Relations contact for ongoing, confidential support; and
- Monitoring the attendance of any student officer undergoing transition during their probationary period. An extension to the probationary period may need to be considered depending on the length of absences.

## Responsibilities – Trans and Non-Binary Members of the Public

### Individuals

- |                         |   |
|-------------------------|---|
| <b>Responsibilities</b> | <p>Individuals are responsible for:</p> <ul style="list-style-type: none"> <li>• Using preferred name and gender pronouns, when expressed, of all people. Gender pronouns can include he/him, she/her, they/them, for example;</li> <li>• Securing properly any records or printouts which may disclose a person's gender identity;</li> <li>• Refraining completely from asking a person about whether they have a Gender Recognition Certificate. In dealing with someone whose name/sex and/or gender on Niche/PNC is different from the gender they are living or presenting as and they have not disclosed any trans status, individuals must add the person's name as an alias to the Niche record. If they disclose their trans status, refer to the Flowchart - Updating Police Systems before making any changes to systems. Further information is also within the supporting information;</li> <li>• Protecting a person's trans status when communicating over Airwave, or other insecure method; and</li> <li>• Refraining from disclosing any unnecessary or irrelevant information. Any such disclosure could result in a criminal prosecution.</li> </ul> |
|-------------------------|---|

### Searching and Detention

- |  |  |
|--|--|
| <b>Transitioning individuals conducting searches</b> | <ul style="list-style-type: none"> <li>• Individuals who are in transition will be fully supported to enable them to participate as fully as possible in the police service during this period and beyond.</li> <li>• Risk areas such as conducting searches and any other operational concerns will be discussed by the individual and their line manager and/or Employee Relations, and any reasonable adjustments agreed and captured within their support plan.</li> <li>• Agreed adjustments will be led by the individual in transition and may include temporary or permanent exemptions from conducting searches.</li> </ul> |
|--|--|

- |   |   |
|---|---|
| <b>Non-binary individuals conducting searches</b> | <ul style="list-style-type: none"> <li>• Non-binary individuals will be fully supported to enable them to participate fully in the police service.</li> <li>• A discussion between non-binary individuals and line managers and/or Employee Relations is advised to agree what searches, if any, they will conduct. If required, the support plan can be used to capture any agreed adjustments.</li> </ul> |
|---|---|

---

**Establishing gender for the purpose of searching**

- Provisions within PACE Codes C, D and H explicitly state that searches and other procedures may only be carried out by, or in the presence of, persons of the same sex as the person subject to the search or other procedure or require action to be taken or information to be given which depends on whether the detainee is treated as being male or female.
  - PACE Code A states that any search involving the removal of more than an outer coat, jacket, gloves, headgear or footwear, or any other item concealing identity, may only be made by an officer of the same sex as the person searched and may not be made in the presence of anyone of the opposite sex unless the person being searched specifically requests it.
  - Individuals must refrain from assuming gender identity of any individual.
  - To establish a person's sex for the purposes of searching, the procedure outlined below must be followed. PACE Code C, Annex L refers.
- 

**Searching trans and non-binary detainees**

- Additional details of how to treat individuals for the purposes of searches, procedures and requirements are outlined in PACE Code C, Annex L. This includes when a detainee expresses a preference to be dealt with as a particular gender.
  - All searches and procedures must be carried out with courtesy, consideration and respect. Officers must be aware that additional practicalities may present themselves when working with trans and non-binary people.
  - When detaining trans or non-binary people, custody staff must be mindful of any medical treatment the person may be undergoing and how this may affect behaviour.
  - Not all menstruating detainees will identify as female. A person who identifies as a transgender man might still require menstrual products, especially at the start of hormone therapy, as may some people who identify as non-binary.
  - Menstrual products and care must be provided to transgender detainees, as with any other detainee, as required.
  - When using force, all attempts of de-escalation and minimising disruption must be considered. This may include accepting a request for a different officer based on many factors, including perception of gender.
  - Where requests are made, based on a perception of any part of identity, these must be assessed to ensure they do not satisfy a non-crime hate incident or hate crime.
  - Further information can be found in supporting information.
- 

**Strip and intimate searches**

- In certain cases, a person in detention may be subject to further intrusive searches. Annex A to Code C relates to strip and intimate searches.
- Where a search exposing intimate parts of the body is to be conducted on a vulnerable person, Code C, Annex A (para 11) requires that an appropriate

adult must be present unless there is a risk of serious harm to the person or someone else.

- There is also a requirement to be sensitive to the dignity of police officers called upon to undertake the search. An individual can choose not to conduct the search. See the Gender Recognition Act 2004.

---

#### **Detention**

- In line with the College of Policing Detention and Custody guidance, trans and non-binary identifying detainees must always be accommodated in a cell or detention room on their own.

---

#### **Independent Custody Visitors**

- Independent Custody Visitors (ICVs) must secure a detainee's consent prior to viewing the custody record of any detainee, and the interaction must be recorded in the custody record in all cases, including if the detainee does not give consent.
  - Gender reassignment information is protected under the Gender Recognition Act 2004, and disclosure to any other person must not be made (Section 22).
- 

## **Updating Police Systems**

---

#### **Principles**

- A person's gender identity and history are private to that individual. However, it is important that information is recorded accurately on police IT systems for all victims, complainants and witnesses.
  - This must reflect any reasonable requests of trans and non-binary people wherever possible, and flexibility may be required.
- 

#### **Updating Niche and PNC**

- A trans person's details can be updated in most circumstances. However, before making any changes to police systems, individuals must refer to the Flowchart - Updating Police Systems. Further guidance on creating and updating trans records on police systems is included in supporting information.
  - The flowchart provides guidance on how to update systems for trans people in circumstances where:
    - No existing Niche or PNC record exists for them;
    - They have an existing Niche record but no PNC record;
    - They have both existing Niche and PNC records or are on PNC only.
  - West Yorkshire Police is working towards improving its systems to record non-binary identities.
-

## Additional Information

---

### Compliance

This policy complies with the following legislation, policy and guidance:

- Gender Recognition Act 2004 (GRA)
  - Equality Act 2010
  - Human Rights Act 1998
  - Data Protection Act 2018
  - APP Detention and custody
  - APP Vetting
  - Police and Criminal Evidence Act 1948 (PACE), Code C, Annex L
  - PACE Code A
  - Practice Advice on Search Management and Procedures 2006
  - ACPO Gender Recognition Act – Guidance for police officers and staff
  - College of Policing Detention and Custody Guidance
  - Equality, Inclusion and Respect in the Workplace policy
- 

### Supporting information

The supporting information for this policy is available on the intranet. This also includes a useful glossary of terms, line manager's guidance, guidance for trans people and the support plan.

---

### Further information

Further guidance in relation to this policy can be sought from the below, that WYP has worked with the trans community to produce:

- Know me to protect me - Working with Trans People
  - LGBT iLearn resource
-



