



Searching Biological Sex Policy (Surrey and Sussex) (1248/2025)

Abstract

This policy provides operational guidance for officers and designated police staff when conducting searches where either the searching officer or detained person is transgender.

Policy

1. Introduction

1.1 This policy provides operational searching guidance in relation to biological sex for police officers and designated police staff.

1.2 While the operational guidance is based on legal definitions related to biological sex, this policy applies to all individuals, including those who identify with genders that differ from their biological sex, for example, transgender, gender fluid, and non-binary people.

1.3 This policy applies to all searches where, in law, the searching officer must be the same sex as the person being searched.

1.4 This policy reflects the ruling for the Supreme Court Judgment in the case of [For Women Scotland Ltd \(Appellant\) v The Scottish Ministers \[2025\]](#) which stated that under the Equality Act 2010 the term 'sex' means 'biological sex'. This policy follows extensive legal advice.

1.5 It ensures compliance with:

- [The Police and Criminal Evidence Act \(PACE\) 1984](#),
- [The European Convention on Human Rights \(ECHR\)](#), in particular Articles 3 and 8, and
- [The Equality Act 2010](#).

2. Scope

2.1 The procedures associated with this policy detail the process to be followed in relation to searching when considering biological sex for searches where, in law, the searching officer must be the same sex as the person being searched.

3. Policy Statement

3.1 This policy will be reviewed in line with published timescales or by exception where there is an extraordinary event which requires update.

Procedure

1. Key Definitions

1.1 **Detained Person:** A person subject to a stop and search or having been arrested, in the custody of police.

1.2 **Searching Officer:** For the purposes of this policy, references to 'searching officer' refers to the person who will undertake or be present during the search of the detained person which may (as legally applicable) be a police officer or member of designated police staff. Where this policy refers to a searching officer, this includes all the officers and staff involved in or present during that search.

1.3 **Biological Sex:** The sex assigned at birth (male or female).

1.4 **Lived Gender:** The gender by which someone lives and identifies.

1.5 **More Thorough Search (MTS):** A search involving the removal of more than jacket, outer coat, and gloves, but not revealing intimate parts of the body. The searching officer must be the same biological sex as the person being searched, unless only headwear of footwear is removed*.

1.6 **Exposure of Intimate Parts (EIP):** A search involving the removal of more than jacket, outer coat, and gloves, which exposes intimate parts of the body. The searching officer must be the same biological sex as the person being searched*.

1.7 **Strip Search:** A search authorised by a Custody Sergeant involving the removal of more than outer clothing. In this Code, outer clothing includes shoes and socks. The searching officer must be the same biological sex as the person being searched*.

1.8 **Intimate Search:** A search which consists of the physical examination of a person's body orifices other than the mouth. The search is conducted by a registered medical practitioner (unless in exceptional circumstances). Where the intimate search is conducted by a police searching officer or a police searching officer is present, they must be the same biological sex as the person being searched*.

*the only exceptions to this are through consensual searches (see section 4)

2. General Principles

2.1 MTS / EIP / strip / intimate searches** must be conducted by a searching officer of the same biological sex as the detained person.

2.2 This applies regardless of the gender identity of either the detained person or the searching officer.

2.3 There may only be exceptions to the general principles through consensual searches (see section 4).

2.4 All existing safeguarding procedures must be followed when searching children, young people, or vulnerable adults, including the presence of an appropriate adult where required.

**subject to the exceptions described in section 1 around headwear, footwear and socks

3. Determining Biological Sex

3.1 Prior to the commencement of an MTS / EIP / strip / intimate search, the detained person must be asked to state their biological sex for the purpose of determining the appropriate searching officer under statutory powers.

3.2 If there is uncertainty about the detained person's biological sex, or if their stated sex does not align with their biological sex, the searching officer must clarify the person's biological sex using available information. This must be objective factual information; NICHE nominal research must be included.

3.3 In the absence of further information, the searching officer must conduct the search based on their assessment of the detained person's biological sex for the purposes of a statutory search. This must take into account the stated biological sex of the detained person and where this stated biological sex is not believed and acted on, there must be clear, objective and documented rationale to justify this. However, see section 4 (consensual searches).

3.4 If, during the search, new information comes to light indicating the detained person's biological sex differs from the initial assessment, the searching officer must stop that search. The rest of the search must be carried out based on the new assessment of the detained person's biological sex for the purposes of the statutory search.

3.5 For strip / intimate searches the custody officer holds responsibility for establishing the biological sex of the detained person for the purposes of a statutory search and/or whether a consensual search may be conducted in accordance with this policy.

3.6 For all other searches, the searching officer will be responsible for making this determination and for recording the same, subject to written authorisation of an Inspector in Surrey and Chief Inspector in Sussex.

4. Consensual Searches

4.1 In the case of an MTS / EIP / strip / intimate search, a detained person may request to be searched by a searching officer of their lived gender where this is different to their biological sex. This must be subject to consent as set out in paragraph 4.2. If there is any doubt that the lived gender of a detained person is the same as their biological sex, they must be asked their preference concerning the biological sex of the searching officer who will conduct the MTS / EIP / strip / intimate search. If the detained person is unwilling to express a preference, a consensual search cannot be undertaken, and they will be searched by an officer of the same biological sex under statutory powers.

4.2 If a detained person is to be searched by or in the presence of a searching officer whose biological sex is not the same as the biological sex of the person to be searched, this may only take place as a consensual search and requires:

- A clear request from the detained person.

- Voluntary agreement by the searching officer.
- Written authorisation by:
 - Custody Sergeant for all strip searches in both Forces.
 - Inspector for all intimate searches in both Forces.

For all other searches (MTS and/or EIP):

- An Inspector in Surrey,
- An Inspector for MTS searches and a Chief Inspector for EIP searches in Sussex,
- Fully informed written consent of all parties to be recorded on a Consensual Search Form 2025. The Consent Form can also be found on NICHE for Custody and is also available via Quickforms on a Mobile Terminal Device (MDT).

4.3 A detained person can also request one part of their body to be searched by a searching officer of one biological sex and the other part of their body to be searched by a searching officer of a different biological sex, depending on anatomical presentation and lived gender. For the part of the search involving a searching officer of the opposite biological sex to the person who is to be searched, this may only take place under these consensual search arrangements.

4.4 If an MTS / EIP / strip / intimate search in line with the lived gender cannot be facilitated in a reasonable timeframe, the search will be undertaken by a searching officer of the same biological sex, in accordance with statutory powers.

4.5 What is considered reasonable will depend on factors such as the risk of waiting, the impact of any delay, Force demand and capacity, risks to the individual, resilience and operational viability.

4.6 If the searching officer is unable to establish the biological sex of a detained person despite reasonable efforts (e.g. due to intoxication or mental health), but an immediate search is necessary and proportionate, the search will proceed under statutory powers based on the biological sex of the individual as determined under section 3 of this policy.

4.7 If it is appropriate to wait, the detained person may be placed on constant observations until the search can be carried out or alternative arrangements are made.

4.8 A consensual search will be undertaken in line with the provisions of PACE, with the exception of the biological sex of the searching officer.

4.9 If consent is withdrawn at any time, the search will cease and be undertaken in line with paragraph 2.1.

4.10 Use of the Consensual Search Form 2025 is mandatory for searches undertaken as detailed in section 4.

5. Searching Officers

5.1 No searching officer can be ordered to carry out an MTS / EIP / strip / intimate search on any person.

5.2 There may be many reasons why searching officers may not want to carry out such searches, including for example, prior trauma, medical conditions, gender fluidity, and transgender status.

5.3 Any searching officer can decline to carry out such a search without providing a reason. Furthermore, they should not be asked to provide a reason.

5.4 There will be no career detriment to a searching officer who declines to carry out such a search.

5.5 The searching officer should in no way be questioned further about their decision and an alternative searching officer should be identified without delay.

6. Recording and Justification

6.1 All decisions, including consents (or lack of), and risk-based justifications, must be clearly documented on the most appropriate record (e.g. stop and search form, consent form and custody record as relevant).

7. Transparency and Public Expectations

7.1 Individuals can expect that:

- They will be treated with dignity and respect.
- They can request a search be conducted by someone who reflects their lived gender.
- Their request for a consensual search will be considered and facilitated wherever possible.
- If their request cannot be accommodated, they will be informed of the reasons why.
- Their preferences, consent, and the outcome will be recorded in writing.
- Searches will always be carried out lawfully, with their rights and welfare in mind.

Owner: Local Policing Service Improvement and Engagement