

GWENT POLICE
EMPLOYMENT OF TRANSGENDER PEOPLE
PROCEDURE



Heddlu
Gwent
Police

SUMMARY

'STAFF ARE REMINDED THAT THIS SUMMARY IS STRICTLY AN OVERVIEW OF THE KEY ELEMENTS OF THE DOCUMENT AND FOR A MORE COMPREHENSIVE EXPLANATION THE WHOLE OF THE DOCUMENT SHOULD BE READ IN PARTICULAR SECTION 1.2'

This document outlines the procedure for the appointment or employment of transgender people or existing officers and staff undergoing gender reassignment.

Gwent Police is committed to equality of opportunity and this procedure is to assist in the recruiting and retaining of transgender police officers, special constables, police staff and community volunteers.

Please see section 1.2 for full procedure.

PRINTED VERSIONS SHOULD NOT BE RELIED UPON. THE MOST UP TO DATE VERSION CAN BE FOUND ON THE INTRANET POLICIES SITE.

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1.0 Guidance, Procedures, Tactics

1.1 Risk Assessments and Health and Safety Considerations

Line managers should consider the impact of potential risks to the individual within their working environment and the potential problems that may arise.

1.2 Specific Instructions,

Stop and Search Procedure hyperlink:

http://hq2a/stage/operational/cfpp/corporate_services/Policy/S%20-%20Policies/205-1b%20issue%201%20stops%20-%20procedure.doc

Searching

1. A police officer, special constable or police staff employee who has been granted a Gender Recognition Certificate will be able to search a detainee of that same gender without any reference being made to the fact that they have acquired a new gender.
2. If a transgender officer or employee has not yet been awarded a Gender Recognition Certificate, they will not be allowed to search a person of their acquired gender (e.g., a male living as a female (who does not have a Gender Recognition Certificate) will not be able to search a female)
3. In the example in 2 above, the individual also cannot carry out searches on men, as this would be socially unacceptable. Equally, transgender men who do not yet have a Gender Recognition Certificate can not carry out or observe section 54 & 55 searches on men, as they are legally of the opposite sex. Also, they cannot carry out these searches on women, as this would be socially unacceptable. All transgender officers will be able to carry out Section 1 searches which allows a police officer to stop and search persons and vehicles.
4. A transgender officer who does not yet have a Gender Recognition Certificate will be required to carry a search exemption card at all times, signed by the Chief Constable. The arrangements for the provision of the card will be made by a personnel manager.

Recruitment

5. There is no bar to a transgender person being recruited to Gwent Police as a police officer, police staff, special constable or community volunteer. However, for all police officer, special constabulary or certain police staff posts which involve searching, if the individual has not been granted a

Gender Recognition Certificate, this is subject to the individual giving their consent to disclosure of their transgender status and carrying a search exemption card.

6. For police staff who have no searching responsibilities, there is no requirement for a new employee's transgender status to be disclosed to supervisors or colleagues. However, forms used for security checks and medical screening will seek information that could lead to identification of transgender status. This information will remain confidential and the disclosure of this information will be restricted to those personnel closely involved who will be expected to honour that confidentiality. Section 22 of the Gender Recognition Act 2004 creates a criminal offence if this information was inappropriately disclosed.
7. Transgender people who have not yet been granted a Gender Recognition Certificate and who have been selected for a post which involves searching are required to inform a Personnel Manager in order that a search exemption card can be obtained.

Serving officers and staff

8. One of the most important issues in the successful management of an employee's transition from one gender to the other is to discuss with them how they would prefer to handle the transition at work, and follow an action plan which has been agreed with them. There are several issues which need to be considered and these are shown in the action plan in Appendix A.
9. If approached by an officer or employee who states their intention to undergo gender reassignment, the line manager will immediately contact a Personnel Manager for guidance and will continue to give support to the individual.
10. The Personnel Manager will ensure that a Memorandum of Understanding which includes an action plan is agreed with the individual and their line manager/s.
11. An officer or employee who undergoes gender reassignment surgery will receive the appropriate sick pay in accordance with Regulation 28 (officers) or the Police Staff Council handbook (staff), and their pay will be reduced after the appropriate stated time period unless discretion to remain on full/half pay is granted under the normal criteria.
12. The line managers will be responsible for ensuring that support is given to the individual and that any possible harassment is dealt with quickly and effectively using the appropriate discipline procedures.
13. There is no general requirement to inform colleagues, clients and the public that an officer or employee is undergoing gender reassignment, or that a new

recruit or employee is a transgender individual. Such information is only necessary where the relationship with the individual, prior to their change of gender, is to continue. In practical terms, it will be difficult for an officer (or some police staff) to work operationally without their colleagues knowing their transgender status, but the wishes of the individual should be respected as far as possible.

14. In the event of any ongoing criminal court cases that the individual may be involved in, a line manager will need to contact the Crown Prosecution Service in Newport to discuss possible issues arising.

Career Break/Re-joiners

15. In the event that an individual has undergone gender reassignment during a career break, they must be willing to disclose this fact to a Personnel Manager if they are an officer or a police staff employee whose role involved searching. This is to ensure that their confidential personal records can be updated, and if applicable, a search exemption card is obtained. The same applies to re-joiners who return to the Force following resignation or retirement.

Transferees

16. A transferee should be advised that Gwent Police does not permit transgender staff who have not been granted a Gender Recognition Certificate, to conduct searches and that they must be willing to have their status disclosed so that a search exemption card can be issued.

Protective Marking

17. http://hq2a/stage/support/standards/info_security/policy/protective%20marking.doc

1.3 Individual Roles and Responsibilities

Relevant line managers up to ACPO rank and HR staff have joint responsibility for the operation of this policy and procedure

1.4 Administration

Line managers are responsible for ensuring that where a Memorandum of Understanding is required for an individual undergoing gender reassignment, it is agreed with the individual concerned, with a copy given to the individual and a copy kept under confidential cover by the line manager and divisional personnel officer. Officers and staff who are exempt from search powers will be provided with a search exemption card signed by the Chief Constable.

2.0 Procedure Statement & Intentions

2.1 Principle & Scope of Procedure:

This document outlines the procedure for the appointment or employment of transgender people or existing officers and staff undergoing gender reassignment.

2.2 Aims of Procedure

Gwent Police is committed to equality of opportunity and this procedure is to assist in the recruiting and retaining of transgender police officers, special constables, police staff and community volunteers.

3.0 Introduction

3.1 Origins/Background Information

There are a small number of people in the United Kingdom who are convinced that their birth gender does not match their gender identity. This conviction is a recognised medical condition known as gender dysphoria. It is estimated that one man in every 12,000 feels he is a woman. The proportion of women who feel they are men is smaller. The law and medical profession allow men and women to undertake gender reassignment.

There are a number of stages which may be involved in the transition process, namely:

- Social changes – assume new name and gender, inform family and friends, live and work in the chosen gender role. This is known as the “real-life” test and normally takes place after psychiatric assessment.
- Hormonal and other treatments – following psychiatric assessment, provision of cross-gender hormone prescriptions and possibly cosmetic means to aid appearance in the acquired gender.
- Surgical gender re-assignment – Surgery is not usually performed until the

transgender person has spent at least two years living in the “real-life” test.

- Individual application for a Gender Recognition Certificate (GRC) which, once granted, enables the person to legally change their gender. The Gender Recognition Panel has various criteria to consider before granting a GRC. It is not essential for an individual to have had surgery or have hormonal treatment in order to be granted a GRC, but they must meet other essential criteria.

3.2 Motivators/Driving Forces

In order to comply with the principles of Equality of Opportunity in the recruitment and retention of transgender police officers and police staff.

3.3 The Legal Basis and Legitimate Aims

The Sex Discrimination (Gender Reassignment) Regulations 1999 amended the Sex Discrimination Act 1975 to protect transgender people against discrimination in employment and vocational training.

The Gender Recognition Act 2004 gives transsexual people the legal right to live in their acquired gender. Legal recognition will follow from the issue of a full gender recognition certificate by a Gender Recognition Panel.

Sections 1, 54 and 55 of the Police and Criminal Evidence Act 1984 and Code A of the Codes of Practice outline powers in relation to the searching of a person, and this is relevant in relation to the searches which may, or may not, be undertaken by a transgender person who does not yet have a Gender Recognition Certificate.

3.4 The Appendices

Appendix A - Formulating an Action Plan

4.0 Implications of the Procedure

4.1 Financial Implications/Best Value

There are no financial implications in the adoption of this procedure. The adoption of this procedure will assist Gwent Police in embracing and valuing diversity. It will assist in providing best value by ensuring appointment is made on merit and ensuring that existing staff feel they are valued and that the Force wishes to retain their skills and experience.

4.2 Human Resources/Training

No additional staff will be required in the implementation of this procedure. The training will be incorporated within the Police Race and Diversity Learning and Development Program which will be progressed through the Confidence and Equality Board.

4.3 Annual Plan Links

The Strategic Plan has as one of its priorities the aim of promoting a force culture that values diversity within a framework that supports operational policing.

4.4 Diversity

In the application of this policy consideration must be given to the possible social impact of this policy on the community. A social impact assessment is a requirement to ensure all issues are considered. This is also a requirement of the Gwent Police Race Equality Scheme. Social impact assessments must be undertaken before and after the application of this policy.

Under the Race Relations (Amendment) Act 2000 Gwent Police is required to undertake proactive work to meet the General Duty of :

- Eliminating unlawful racial discrimination;
- Promoting equality of opportunity;
- Promoting good relations between people of different ethnic groups.

The General Duty is outlined in Section 71 (1) of the Act, and must be met **in its entirety**.

Monitoring must be undertaken to ensure that there is no adverse impact either positive or negative upon any one particular social group or individual. The results of monitoring must be analysed and be available for publication, and appropriate changes made.

All individuals using this procedure must be aware of the potential impact that this procedure has on the individuals to whom it is applied. The following strands of diversity and their corresponding pieces of legislation must be considered when answering these questions.

- Welsh Language Act 1993
- Race – Race Relations Act 1976
- Race Relations Amendment Act 2000
- Disability - Disability Discrimination Act 1995
- Gender – Sexual Discrimination and Equal Pay Act 1971
- Age – Article 13 Treaty of Amsterdam (2006)

- Sexual Orientation – Article 13 Treaty of Amsterdam (2003)
- Religion – Article 13 Treaty of Amsterdam (2004)
- Employment Equality (Sexual Orientation) Regulations 2003
- Employment Equality (Religion or Belief) Regulations 2003
- Gender Recognition Act 2004

4.5 Consultation

Police Authority
ACPO
Divisional and Departmental Heads
Police Federation
Superintendents Association
Unison Trade Union
Gwent Women Police Association
Gwent Black Police Association
Gwent Police Disability Network
Gwent Police Gay Support Network
Welfare Officer
Freedom of Information Officer
Including external consultation with the Beaumont Society.

5.0 Human Rights Consideration Certification

5.1 Auditing for potential interference and discrimination

Q1. What articles of the Human Rights Act 1998 may be engaged?

Articles 3, 8 and 14

Q2. Where individual rights are engaged what is the potential to discriminate against the parties involved?

Where people are involved there is always potential but:

In the application of this policy the Force will not discriminate against any persons regardless of sex, race, colour, language, religion, political or other opinion, national or social origin, association with national minority, property, birth or other status as defined under article 14 of the European Convention on Human Rights.

5.2 Key Human Rights Principles

Q1. What is the legal basis for your procedure?

The legal basis for this procedure stems from the Gender Recognition Act 2004, the Sex Discrimination Act, and the Code of Practice on Transsexual People in the Workplace. Contravention of the Sex Discrimination Act in relation to transgender people can be used in evidence at an Employment Tribunal.

Q2. Does the procedure provide details of what could be considered as a legitimate aim for the potential interference with an individual's rights, through the exercising of this procedure?

1. Public Safety
2. The protection of health or morals
3. The prevention of disorder or crime; and
4. The protection of the rights of others.

A legitimate aim could be where an individual refuses to disclose their transgender status and could therefore put themselves and Gwent Police at risk in relation to the issue of personal searches undertaken in accordance with the Police and Criminal Evidence Act.

Q3. How are staff made aware of the clearly defined decision making processes?

Individuals who wish to undergo gender reassignment will be encouraged to discuss with their line managers how they wish their transition to be handled in

the workplace, and to agree an action plan accordingly.

Q4. What are the minimum standards of documentation in relation to decision making?

Application Form
Shortlisting records
Interview records
Agreed action plan regarding the transition process

Q5. How does your procedure provide guidance on the justification for actions and assessment as to whether the action is the least intrusive?

Procedure is detailed in section 6.2

5.3 Rights, Publication, Audit and Inspection

Q1. What is the decision on public disclosure? Where this is inappropriate, justification of any reservation to this role on public interest or other grounds should be given.

Gwent Police will not publicly disclose the identity of transgender people joining or working for Gwent Police. This procedure can be publicly disclosed in line with the force Freedom of Information Scheme.

Q2. What rights to make representation available?

Unsuccessful applicants can seek feedback on their application. Staff who believe that they have been unfairly treated due to their transgender status may follow the Fairness at Work Procedure.

Q3. How is the policy made available to the public?

This policy will be available to the public in line with the requirements of the Freedom of Information Act 2000 and will be available on the Gwent Police website. Please also refer to section 7.

Q4. What appeal process is available?

The Fairness at Work Procedure allows police staff and police officers who have reason to believe that they have not received fair and equal treatment to pursue their grievances.

Police staff, officers and external job applicants who believe that they have been discriminated against in their application on the grounds of gender reassignment, may lodge a claim to an employment tribunal within 3 months less one day of the

alleged discriminatory act.

Q5. What internal review and audit process is in place or is proposed?

This policy will be monitored on an informal basis by Divisional Personnel Officers and the Personnel Officer (Recruitment) involved in recruitment procedures and any concerns will be brought to the attention of one of the Personnel Managers. The policy will be formally reviewed bi-annually after publication.

Q6. What external independent scrutiny is recommended?

Monmouthshire County Council internal audit section and Audit Commission would be relevant bodies to carry out this function.

5.4 Certification of Compliance

Consideration has been given to the compatibility of this policy and related policies and procedures with the Human Rights Act; with particular reference to the legal basis of its precepts: the legitimacy of its aims; the justification and proportionality of the actions intended by it; that it is the least intrusive and damaging option necessary to achieve the aims; and that it defines the need to document the relevant decision making process's and outcomes of actions.

5.5 Legal Vetting

There are no issues in this policy under ECHR, which cannot be resolved.

Policy Officer

This policy has been vetted.

6.0 Promotion and Distribution

General Orders
Force Intranet site
Force Internet Publication Scheme
Staff Associations and UNISON (Trade Union)

7.0 Monitoring / Review

Monitoring

Application of the procedure will be monitored by Divisional Personnel Officers and the Personnel Officer (Recruitment) involved in recruitment procedures and any concerns will be brought to the attention of one of the Personnel Managers. On-going review will also take place in the light of new employment legislation and best practice. The procedure will be formally reviewed bi-annually after publication or as a result of relevant impending or new legislation.

The Human Resources Department will monitor this procedure.

8.0 Procedure Identification Page

This procedure can be disclosed to the public

Procedure Title: Employment of Transgender People

Reference : 112/13 b issue 2

Procedure Ownership: Human Resources

Portfolio/Business Area Owner: ACPO Operations Support

Procedure Written By: Personnel Manager

Department Responsible: Human Resources

Procedure Lead: Head of Human Resources

Links to other Policies: This procedure links with the Force's Equal Opportunities Policy and Strategy and also the Recruitment and Selection Guide (for police staff and internal vacancies), which sets the standards for the principles and practices that should be followed. It also links to the ACPO Guidance for police officers and police staff on 'The Gender Recognition Act' (published July 2005).

Procedure Implementation Date: 13th December 2004 Personnel Strategy Group Review approved by PSG 2nd February 2006. Implemented April 06.

Procedure Review Date: annually

APPENDIX A

GWENT POLICE

EMPLOYMENT OF TRANSGENDER PEOPLE

FORMULATING A MEMORANDUM OF UNDERSTANDING

1. Formal Notification

It will be necessary for the individual to notify the Force in writing of their intention to change gender. This is to ensure that personnel records can be amended at the agreed time with the individuals' change of name (if appropriate) and gender.

2. Timescales

The action framework will be dependent on the individual's timetable of personal events around the transgender process and this must guide managers. Timescale conditions will not be imposed on the individual as their timetable will be unique with varying levels of treatment or surgery. Medical intervention is also affected by whether the person is being treated on the NHS or privately.

It is reasonable to ask the individual for notice with regard to timescales for certain events, but this may not always be possible (e.g., surgery may be booked). However, adequate preparation time may make the process easier.

2.1 Change of location

It should be ascertained whether the individual would like to remain in their current post or location or whether they would prefer to move. The decision will rest with the individual and no pressure should be placed on them. Depending on their role, there may be limited scope to move police staff, but each case will be dealt with on an individual basis.

2.2 Use of facilities

Part of the negotiation process will be to agree at which point the individual changes their use of changing rooms and toilets. It is not acceptable for a transgender person to use separate facilities, e.g., an accessible toilet for disabled people, although this might be a short-term option during the early stages of reassignment as long as the individual is happy with the situation.

An appropriate time for using the facilities of the 'new' gender is likely to be the change of social gender or after surgery.

2.3 Notifying work colleagues

There is no general requirement or need to inform colleagues that an employee is undergoing gender reassignment. It would only be necessary to do so where the relationship with someone who knows the individual prior to the change of gender is to continue.

However, in order to assist the individual, the Personnel Manager should discuss with him or her how widely they wish their decision to be made known. If the individual decides that colleagues should be informed, the Personnel Manager will arrange for this to be done in a structured way, informing them of the issues and taking the opportunity to educate relevant staff, who will be informed of the need to treat the individual with respect and dignity.

The individual may wish to participate in the notification either in person or by letter, or they may wish it to be done by others (e.g., Personnel Manager, line manager/s, external organisations).

3. Administrative arrangements

3.1 Amendment of personal records

All personal records should be amended to reflect the individual's chosen gender, including personnel file, Delphi personnel computer record, PV on Oris, Occupational Health Unit records etc.

All records held in a personal file must be weeded and relevant information transferred to a new file. Nothing should remain on file which would disclose to a third person that a change has occurred. All material that can not be disposed of should be placed in a sealed envelope and attached to the new file with the instruction "Confidential, Personnel Manager Only". In the case of the Occupational Health Unit file, the envelope will be marked "Confidential, Occupational Health Adviser/Force Medical Adviser Only".

3.2 Uniform

A new uniform will need to be issued if worn. Although the individual will be expected to conform to the dress code, certain flexibility may be discussed during the period of reassignment. The Personnel Manager will discuss with the individual the arrangements for the issue of the new uniform, and its collection.

3.3 Warrant/identity card

Arrangements must be made to have this changed and the Personnel Manager will need to notify HQ Admin of the reasons for the change to avoid any embarrassment. There may be a need to change the warrant/identity card on a regular basis to reflect physical changes and this should be factored into the action plan.

3.4 Search exemption card

The Personnel Manager will arrange for a search exemption card to be signed by the Chief Constable and issued to the individual. Once the individual has been granted a Gender Recognition Certificate, the search exemption card will be returned to the Personnel Manager for destruction.

3.5 Review of action plan

It is important that the Memorandum of Understanding and action plan is reviewed on a regular basis to ensure that it is still appropriate to meeting the individual's needs. It should be reviewed at least every 3 months, but should also be reassessed at each significant stage of the process. The Personnel Manager will agree review dates with the individual and the line manager will also be involved as applicable.

3.6 Additional advice and guidance

It may be appropriate to seek additional advice and guidance from relevant external groups such as the Beaumont Society to help inform those involved in the Memorandum of Understanding and action plan of the relevant issues.