

# Equality and individual needs

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Detainees come from all areas of the community. They each have their own particular needs and vulnerabilities – some are obvious, others less so. It is fair and right that the police service takes all reasonable steps to ensure that these needs and vulnerabilities are identified to help mitigate any risks.

Custody staff should be aware of protected characteristics as set out in the [Equality Act 2010, part 2, chapter 1 \(sections 4-12\)](#).

[Information on protected characteristics](#) is available on the Equality and Human Rights Commission website.

## Risk factors

The list of circumstances that may cause an increase in the level of risk for a detainee include being:

- a prominent or responsible member of the community, for example an MP or councillor
- a religious, cultural or faith leader
- employed in a notifiable occupation, for example those relating to vulnerable persons or national security
- suspected of committing a publicly prominent offence, for example with TV coverage
- suspected of committing an offence against a vulnerable victim
- suspected of committing an offence which carries significant public outrage
- suspected of committing an offence which will be a life-changing event for an individual

## Female detainees

**The Corston Report (2007) A Review of Women with Particular Vulnerabilities in the Criminal Justice System** found that, owing to the high level of complex needs, socio-economic and family consequences of imprisonment, and the different range of offences committed by women, there are fundamental differences between male and female offenders. In the light of this, it is apparent that a different and distinct approach is needed for women.

When identifying the needs and vulnerabilities of detained women, it is important to consider:

- the legal rights of girls under the age of 18
- specific physical and medical welfare needs, including menopause, menstruation and the provision of menstrual products
- child/dependent welfare issues (particularly for lone parents and foreign nationals)
- access to female staff
- conditions under which women are searched (with respect for privacy and dignity)
- adequacy of clean replacement clothing, access to toilet, hand washing and shower facilities
- pregnancy, known or possible (particularly when considering modes of restraint, transport and the potential requirement for additional and different types of food and/or drinks)
- mental health (in particular depression and suicidal thoughts)
- increased risk of self-harm
- domestic violence and abuse issues
- increased likelihood of drug addiction and/or alcoholism
- the effects of being separated from a child (where the detainee has a baby or infant)

For further information, see the **Faculty of Forensic and Legal Medicine's guidance for managing of pregnant drug or alcohol-dependent patients in custody**.

If a woman is experiencing menopause or menstruation, officers should consider whether it is likely to have an effect on the detainee's welfare.

Female detainees should be asked at the earliest opportunity, in private if possible, if they require or are likely to require, any menstrual products while they are in police custody. They should also be informed that they will be provided free of charge, including any replacements.

Pregnant women in police custody may have a range of additional health and welfare requirements and are likely to experience heightened levels of physical and mental vulnerability.

Female detainees should be made aware that they can speak to a female officer in private if needed. They should be advised that there are hand washing and shower facilities available on request.

## Further reading

- [Equality Act 2010](#)
- [HM Government \(2014\) Mental Health Crisis Care Concordat](#)
- [National Offender Management Service \(NOMS\) \(2009\) Single Equality Scheme](#)
- [Social Exclusion Unit \(2002\) Reducing reoffending by ex-prisoners](#)
- [HMI Prisons \(2008\) Prison Service Order \(PSO\) 4800 Women Prisoners](#)
- [O'Brien, M and others. \(2001\). Psychiatric morbidity among women prisoners in England and Wales](#)

## Access to female staff

Female detainees should have access to a female member of custody staff responsible for checking on their welfare needs. Forces should provide this access promptly and as soon as practicable.

If a female member of custody staff is unavailable, a female police officer or female member of police staff (preferably designated as a detention officer) who is on duty at the station or unit should be assigned this role.

For further information, see [Police and Criminal Evidence Act 1984 \(PACE\) Code C, paragraph 3.2\(b\), 3.5 \(ca\) and paragraph 9.3B.](#)

## Domestic violence and abuse

In its 2014 report on domestic abuse, HM Inspectorate of Constabulary (HMIC) cited reports that as many as half of the women who have passed through the criminal justice system and then entered prison have experienced domestic violence, and up to a third have been victims of sexual abuse.

Previous abuse has been found to contribute to drug and alcohol problems, mental health problems and self-harm.

For further information, see [HMIC \(2014\) Improving the Police Response to Domestic Abuse.](#)

## Detainees with caring responsibilities

Any person who comes into custody may have caring responsibilities for another person. The level of care can vary considerably and staff must be aware of the potential implications of detention for each detainee and their dependents.

Custody staff should ask detainees about any caring responsibilities they may have during the booking-in process. They must record this information in the risk assessment or other appropriate place in the custody record. If a detainee is identified as having dependents for whom arrangements are required, forces should organise alternative care for their dependents without delay.

Detainees with caring responsibilities are likely to worry more as their time in detention increases. Staff should be proactive in their enquiries. A few minutes during the booking-in process to resolve issues can reduce the time taken later when the person is in detention. Staff should be careful to ensure the accuracy of information when passing updates to detainees about their detention.

Detainees may be reluctant to identify themselves as carers because of the embarrassment of their arrest. They may have concerns about how those they care for or others associated with them will view the detention.

Failure to acknowledge the concerns a detainee has for a third party increases the stress associated with their detention. Even if no action is possible, or efforts to resolve the concerns fail, it is still important to respond. For example, a parent may be convinced that they must be released to care for a child. If, however, the seriousness of the case prevents this, staff should acknowledge that there are concerns and take time to explain the police response.

## Formal and informal caring relationships

Detainees may have a formal or informal relationship with their dependents. Carers may support any individual whether they are related or not. Children and young people in custody may have caring responsibilities for a sibling, parent or family member.

## Multiple phone calls

A detainee may wish to make multiple phone calls to arrange alternative care arrangements. Staff should facilitate these calls, provided there is no investigative impediment. For further information, see [PACE Code C 5.6](#).

## **Calls to custody from family members or dependents**

Family members or dependents may ring custody for information. Data protection legislation and [PACE](#) limit the information that can be given to them without the detainee's consent. Staff should, therefore, make an agreement with the detainee about these calls and must record this agreement in the custody record. See [PACE Code C 5.8](#).

## **Information from family members or dependents**

Family members or dependents may be able to provide further information on a detainee's risk assessment and staff should consider asking them appropriate questions. Similarly, they may provide information without being prompted. In these cases it is essential that staff record the information they give and amend the risk assessment accordingly.

## **Offences that involve other family members or dependents**

Offences which involve an allegation by one family member against another can create additional stress for a detainee. They may have concerns about the reception they might receive on release and the effect the allegation may have on any relationships. Staff must be aware of these additional risks and consider them in the initial and ongoing risk assessments. Parents or guardians who are involved in the allegations cannot act as appropriate adults.

## **Disabled detainees**

Police forces must have a policy to ensure compliance with the [Equality Act 2010](#). They should facilitate all requests for reasonable adjustments as far as possible to accommodate the additional needs of a disabled person in custody suites. In particular, disabled detainees must be able to reach call bells in police custody suites.

Mattresses should be of an appropriate height so that disabled detainees can move from the bed independently.

Hearing loops should be available and custody staff should be able to use them.

Forces must consider the needs of all detainees to ensure compliance. Any reasonable adjustments should not compromise the overall safety and security of the custody suite.

The Equality Act 2010 defines a disability as 'a physical or mental impairment which has a substantial and long-term adverse effect on a person's ability to carry out normal day-to-day activities'. Individuals do not have a duty to declare a disability. Staff should, however, be mindful of the possibility and react accordingly.

Where staff are uncertain of the needs of a detainee, they should ask about any additional needs or requirements the detainee may have. Additional advice may be available from healthcare professionals (HCPs), family or friends, but the detainee must first give consent for communication with their family and/or friends. Custody staff should document the response or control measure implemented in the custody record. They should take particular care to include the additional needs of detainees with disabilities during a potential evacuation.

For further information, see [Buildings and facilities](#).

## Assistance dogs in custody

Assistance dogs are a mobility aid and, wherever possible, the dog should remain with the owner. This includes when the owner is placed in a cell. Staff should remove the harness and lead when the detainee is in a cell.

Staff should provide the dog with a blanket and water bowl and make arrangements for the dog to relieve itself. The dog should only be given food provided by the owner or the local guide dogs district team (if available).

In exceptional circumstances, where the dog cannot be kept with the owner, staff should keep it in an office and inform the owner of the arrangements. Under no circumstances should staff place dogs in kennels or with other dogs.

If the dog does not stay with the detainee, staff must provide further support.

For further information see:

- [Guide Dogs](#)
- [Hearing Dogs for Deaf People](#)

## Specialist support in custody

[PACE Code C paragraph 3.5](#) places a specific responsibility on the custody officer to ensure that interpreting support is provided for blind, deaf or otherwise vulnerable detainees who may have difficulty understanding procedures or completing documentation.

Using a suitably qualified interpreter (for example, a British Sign Language interpreter) as set out in [PACE Code C paragraph 13.1](#), may facilitate communication with people who appear to be deaf, or if there is doubt about their ability to hear.

People with dyslexia and learning difficulties are likely to find reading and understanding documents difficult and may need to have the information communicated verbally.

If a person is blind, seriously visually impaired or unable to read for other reasons, the custody officer must make sure their solicitor, relative, appropriate adult or some other person likely to take an interest in them and not involved in the investigation is available to help check any documentation. See [PACE Code C paragraph 3.20](#).

## Religious and cultural needs

A person in custody should be allowed whatever facilities will help and sustain them through their period of detention, in conjunction with their risk assessment. Establishing the specific needs of a person is best determined by appropriate, effective and respectful questioning. Officers should record responses in the custody record and include these as part of any handover process.

There will be occasions where safety requirements, resourcing or the investigative process mean that a detainee's religious needs cannot be fully met. Officers and staff should explain to the detainee where it is not possible to meet their needs, and enter this in the custody record.

Officers and staff should never assume the religion or belief, culture or nationality of a detainee and should respect decisions not to disclose a religion or belief.

## Additional provisions in custody

Custody managers should consider providing a separate room for use as a prayer room, or for detainees to receive official visitors such as local faith leaders.

Forces should make arrangements for providing:

- copies of religious texts
- advice to Muslim detainees on the direction of Mecca (for example, a compass or mark applied to the eastern cell wall of one or more cells)
- halal, kosher, vegetarian and vegan meal alternatives

Custody staff should facilitate any reasonable requests wherever possible.

## Foreign national detainees

Foreign nationals may require additional support and information to enable them to understand why they are being detained, and to make decisions while in custody. Custody officers should be aware that confusion and lack of familiarity with the UK criminal justice system may influence the behaviour of foreign nationals in custody.

Specific needs of an individual are best determined by appropriate, effective and respectful questioning. Officers should document relevant responses in the custody record and communicate these as part of the handover process.

Foreign nationals who are arrested and detained in the UK may have formed a negative view of the police in their own countries, where law enforcement agencies may not have as rigorous statutory safeguards on detention and treatment as provided for by PACE and its associated codes of practice. Language and cultural differences may also induce anxiety and vulnerability in a detainee as their perceptions of custody may be influenced by their particular background, experience or situation.

## Rights and entitlements for foreign detainees

In addition to the [rights and entitlements](#) applicable to all detainees, including the right to interpretation and translation, a detainee who is a citizen of an independent Commonwealth country or a national of a foreign country, including the Republic of Ireland, has the right, upon request, to communicate at any time with the appropriate high commission, embassy or consulate.



Officers must inform the detainee of this right as soon as practicable and ask them if they want to have their high commission, embassy or consulate told of their whereabouts and the grounds for their detention. Officers should act on such a request as soon as practicable and not delay it. Consular officers may, if the detainee agrees, visit one of their nationals in police detention and, if required, arrange for legal advice. Such visits must take place in private.

If a citizen of a country with which the UK shares a bilateral consular convention or agreement is arrested, the appropriate high commission, embassy or consulate must be notified as soon as practicable. United Kingdom Visas and Immigration (UKVI) can determine whether compliance with relevant international obligations requires notification of arrest to be sent and will inform the custody officer of the action that the police need to take.

## **Circumstances where notification is not appropriate**

The exceptions to this rule are where the detainee is:

- a political refugee (whether for reasons of race, nationality, political opinion or religion)
- seeking political asylum

In such cases, forces should permit no access to the detainee and provide no information about the detainee to those bodies (foreign high commission, embassy or consulate), except where the detainee has specifically requested this. If a detainee makes a claim to asylum, officers should contact the Home Office Immigration Enforcement Command and Control Unit.

The custody officer must ensure that UKVI is informed as soon as practicable of the claim.

## **Essential written documents**

### **PACE Code C paragraph 7**

**PACE Code C paragraph 13** and **Annex M** provide details of the requirement to provide interpretation and, in particular, the essential written documents which must be provided to detainees.

Templates for providing such documents can be found on the Home Office website.

## **Human trafficking, extortion and smuggling**

Custody officers and staff must be aware of the potential increased vulnerability of individuals who may be victims of human trafficking, extortion and/or abuse (often in the illegal sex trade).

Custody officers should also consider that a foreign national person entering custody may be less likely to have established support networks that can help with the care of dependents, or support them with housing and healthcare on release.

## **Clandestine entry and UKVI detainees**

A foreign national may be held in custody by UKVI under a force agreement for short-term use of police cells for failed asylum seekers or immigration offenders. Notwithstanding the provisions of consular conventions, if the detainee claims that they are a refugee or have applied or intend to apply for asylum, the custody officer must ensure that UKVI is informed as soon as practicable of the claim. UKVI will then determine whether compliance with relevant international obligations requires notification of the arrest to be sent and will inform the custody officer as to what action police need to take.

Detainees who have been found (by UK Border Force or the police) trying to enter the UK by clandestine means should be assessed by an HCP and monitored according to medical advice.

A detainee who has been smuggled into the UK may be physically and/or mentally frail or unwell following a long journey in cramped and dangerous conditions. Detainees may require additional food or drinks, clothing and blankets.

Further information on the identification and management of foreign national detainees is provided in [ACPO and NPIA \(2011\) Briefing Note on Foreign Nationals](#).

## **Transgender detainees and transgender staff**

It is important that transgender detainees (more commonly self-described by the shortened term trans) receive the same respect and dignity as any other members of the public. There is also a requirement to be sensitive to the dignity of police officers called upon to carry out procedures such as strip searches.

Trans includes a person who has the protected characteristic of gender reassignment (previously referred to as transsexual) and also a person who adopts, fully or partially, dress, appearance and/or behaviour normally identified as belonging to the opposite gender (previously referred to as

transvestite).

The term also applies if the person is proposing to undergo, is undergoing or has undergone a process (or part of a process) for the purpose of reassigning the person's sex by changing physiological or other attributes of that sex. That person is not required to be under medical care to satisfy this definition.

In law, the gender of an individual is their gender as registered at birth unless they have been issued with a Gender Recognition Certificate (GRC) under the Gender Recognition Act 2004 (GRA), in which case the person's gender is their acquired gender. [Annex L to PACE Code C](#) provides useful information on the approach to be followed to establish the gender of the detainee for the purposes of a search or procedure. Annex L to PACE Code C, notes for guidance (note L5) also states:

'Chief officers are responsible for providing corresponding operational guidance and instructions for the deployment of transgender officers and staff under their direction and control to duties which involve carrying out, or being present at, any of the searches and procedures described in paragraph 1. The guidance and instructions must comply with the Equality Act 2010 and should therefore complement the approach in this Annex.'

Dealing with detainees with respect and consideration increases the likelihood of their cooperation and decreases the level of risk and vulnerability posed.

Note: 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 should be provided to transgender detainees as with any other detainee as required.

## Strip searches

Custody officers should follow the following approach when establishing whether the person concerned should be treated as being male or female for the purposes of strip searches and related procedures.

If there is no doubt that the person concerned should be treated as being male or female, officers should deal with them as being of that sex.

If at any time there is doubt about whether the person should be treated, or continue to be treated, as being male or female, officers should consider the following stages.

## **1. Ask the detainee**

Officers should ask the person what gender they consider themselves to be. If they express a preference to be dealt with as a particular gender, officers should ask them to indicate and confirm their preference by signing the custody record or, if a custody record has not been opened, the search record or the officer's notebook. Subject to 2 below, officers should treat the person according to their preference. Officers must not ask the person whether they have a GRC.

A detainee can be charged in any name presented. A person is charged by name, not gender. However, care must be taken to ascertain the identification of that detainee to ensure formal records are accurate.

## **2. Grounds for doubt**

If there are grounds to doubt that the preference in 1 accurately reflects the person's predominant lifestyle, for example if they ask to be treated as a woman but documents and other information make it clear that they live predominantly as a man, or vice versa, officers should treat them according to what appears to be their predominant lifestyle and not their stated preference.

## **3. Detainee unwilling to express their preference**

If the person is unwilling to express a preference as in 1 above, officers should make efforts to determine their predominant lifestyle and treat them in accordance with this. For example, if they appear to live predominantly as a woman, officers should treat them as being female.

## **4. None of the above applies**

If none of the above applies, officers should deal with the person according to what reasonably appears to have been their sex as registered at birth.

# **Respect and consideration**

Officers must always accommodate trans detainees in a cell or detention room on their own.

Once a decision has been made about which sex a trans detainee is to be treated as, the officer or staff member who will carry out the search should be advised of that decision, and the reasons

supporting it, prior to carrying out the search. This is important to maintain the dignity of the officer or staff member concerned. Sensible application of the above principles should protect officers and staff and help to minimise the risk of conflict and embarrassment.

## Gender Recognition Act 2004

[The GRA 2004, section 9](#) provides that where a full GRC is issued to a person, for all purposes that person's gender becomes their acquired gender.

In practical terms, legal recognition under this Act has the effect that, for example, a male-to-female transsexual person is legally recognised as a woman in English law. On the issue of a full GRC, the person is entitled to a new birth certificate reflecting the acquired gender (provided a UK birth register entry already exists for the person). They can marry someone of the opposite gender to their acquired gender, as well as someone of the same sex.

[The GRA section 22](#) defines any information relating to a person's application for a GRC or to a successful applicant's original gender as protected information. It is not authorised or permitted for any police officer or any member of police staff who has acquired information relating to this legal change (while performing their official duties) to disclose that information to any other person. To do so constitutes an offence in contravention of the GRA.

Disclosure occurs if a record of this protected information is read by others. For example, if the existence of a GRC (that states that the detainee is transgendered) is noted in the relevant custody record, and that custody record is later viewed by an independent custody visitor, this constitutes a disclosure and is an offence under [the GRA section 22](#).

Officers and staff should secure custody records containing any reference to a GRC for transsexual detainees (protected information) against disclosure.

## Tags

Detention and custody