

June 2026 - please check scalp.org.uk for updates.

Guide for Trans People

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If you have specific questions, or if you experience anything that is completely different to what is written in this Guide, please help us to keep it accurate by getting in touch:

activists_legal@protonmail.com

If asking a question keep it hypothetical and you can anonymise your experience if you are telling us about specific interactions with the police or courts.

Instead of writing 'I did / I'm planning this - what will the police do?', try writing, 'If somebody were to do this, what might the consequences be?'.



Trans Rights Protest in Aberdeen, June 2026. Photo by Trans Weans Won't Wheesht.

Preface

This guide has been produced jointly by the [Scottish Community & Activist Legal Project \(SCALP\)](#) and [Scottish Trans](#) to inform trans and non-binary people of their legal rights when interacting with Police Scotland.

SCALP is a collective of activists from different social and environmental justice backgrounds who are collaborating on legal support. We attend protests as legal observers, challenge police abuse, support people in the case of arrest, provide legal guidance, and run workshops on Scots law.

Scottish Trans works to improve equality, rights and inclusion for trans and non-binary people in Scotland. We produce a range of resources, research and information to help trans people and our allies understand their rights, and work with our community to understand the issues that they're facing right now. Scottish Trans is a project of [Equality Network](#), a Scottish LGBTQIA+ charity.

This guide covers Scots law, which is specific to Scotland. You can find [guidance for England and Wales](#) produced by the Green & Black Cross.

Table of Contents

Preface	2
Introduction	3
Know Your Rights General Principles	4
Your Rights During Stop & Search	7
Testosterone	9
Your Rights in Custody	10
Further Reading & Resources	10

Introduction

In this guide we will talk about your rights as a trans or non-binary person, and how the police are *supposed* to treat you according to the law and their operational policies.

However, we know that both the police and courts behave unpredictably. Many trans and non-binary people have had negative experiences with and opinions of Police Scotland. A [report by Scottish Trans](#) found that 58% of trans and non-binary people in Scotland were very or fairly dissatisfied with Police Scotland, with many saying that they were not taken seriously or victim-blamed when reporting crimes. Other people reported being outed, threatened, and physically and sexually harassed by police. Trans and non-binary people also face poor treatment from Police Scotland due to other parts of their identity, as people of colour, Muslims, women, and working class people are also disproportionately affected by police violence and misconduct.

This guide combines first-hand experience, activist testimonies, legislation, and Police Scotland's Standard Operating Procedures (SOPs) to provide a holistic picture of how the law is applied and what to expect from interacting with the police as a trans person. *[It is important to remember that SOPs are Police Scotland's internal operational policies and are not legally binding].*

In April 2025, the UK Supreme Court ruled in *For Women Scotland Ltd v The Scottish Ministers* that 'sex' means 'biological sex' or 'sex at birth' in the Equality Act 2010. You can read about the wide-ranging impacts of this ruling on the [Scottish Trans website](#), but it also has implications for the rights of trans and non-binary people when interacting with the police.

In March 2026, Police Scotland concluded their 'Sex and Gender Review' and have begun to introduce new policies that affect trans and non-binary people with regards to data recording and searches. **Police Scotland will now request and record the 'sex' as registered at birth and 'trans status'** (whether or not you are trans) for all people who are suspected of committing a crime, reporting a crime, or are deemed 'at risk' by

the police. You will be asked “do you consider yourself to be trans, or to have a trans history’. You are not legally required to answer either of these questions.

We believe that this approach has significant negative impacts for the safety, privacy and wellbeing of trans and non-binary people, and may make those who wish to report crimes feel less able to do so. Scottish Trans raised these issues with Police Scotland during and after the review, but they did not seem interested in making any changes to mitigate these problems.



Trans Weans Won't Wheesht (formerly Trans Kids Deserve Better Scotland) occupy the balcony of the EHRC offices in Glasgow in May 2025.

Know Your Rights General Principles

Personal Details and “No Comment”

The police do not have a general right to ask for your details. There are a few specific circumstances where the police can ask you to provide your details. These are:

- If you are **arrested** or,
- **Suspect of, or witness to a specified crime** or,
- **Driving a vehicle**

In these circumstances you are only legally required to tell the police the following details:

- **Name**
- **Address**
- **Date of birth**
- **Place of birth**
- **Nationality**

Note that 'sex' and trans status are not on the above list. You are never legally required to give the police that information. More generally, you do not legally have to answer any other questions and we suggest you don't. This is especially important if you are at a protest, where police will be actively trying to gather intelligence. To avoid incriminating yourself or others, it's best not to answer. Instead, you can say "**no comment**".

It is important to note that **it is an offence to provide false details**. The police will use the electoral register and council tax records to verify your identity. In Scotland, there is **no legal requirement for you to change your name with the National Records of Scotland** (although some people may choose to sign a [statutory declaration](#) showing proof of name change, or may have previously changed their name by deed poll in England or Wales). However, if the name you provide does not match local authority records, you may be asked to provide ID.

If the name you provide does not correspond with any of your ID, the Police are very likely to query why the name you have provided is different. As long as you are not providing a false name, this is not an offence. Some trans people choose to provide the police with a name that they have identification documents in to make these interactions a little easier.

You may also have different IDs in different names. This is not against the law unless the intent is to commit fraud. If you do have different names on different documents, you may choose to explain this to the police.

You can request that the police use a different name to that on your ID when addressing you.

Under What Power?

The police always need a legal basis for their actions. If you are given a command by the police, you should always **ask if you are legally obliged to comply**, what power they are using, and what it gives them the power to do.

This can be a useful way of indicating to the police that you know your rights and that you are monitoring what they are doing. It can also sometimes be helpful to have this information if your case goes to court.

No Duty Solicitor

If you are arrested, you have the right to have a solicitor of your choosing contacted. You do not need to remember the solicitor's contact details, it is enough to just know their name.

The police may encourage you to use a 'duty solicitor'. The duty solicitor could be any solicitor operating in the area and may not be supportive of trans people, or familiar with protest law (relevant if you are arrested during a protest). Therefore, you might want to memorise the names of a few solicitors that you would be more comfortable talking to in case you are arrested. If you are arrested at a protest that is being supported by SCALP, we recommend that you request the solicitor named on the bustcard.

Your Rights During Stop & Search

The police have **no general right to search you** on the street but there are a few exceptions:

- If you are suspected of committing certain crimes such as **carrying a weapon, drugs, or fireworks**. They must have a *specific* reason to suspect you of committing these crimes.
- Under a **Section 60 Order** - a power sometimes used at large protests and events that allows officers to search people in a defined area during a specific time period due to 'anticipation of violence')
- If you are **entering a place where being searched is a condition of entry** (e.g., some sport or music venues)

You should ask what the reason is for your search. **It is illegal for the police to ask you to 'volunteer' or 'consent' to be searched.** They must have a warrant or a valid legal reason to search you.

During a search you **do not need to give any personal details (name, address, date of birth, place of birth, nationality)**. If police find any ID during your search, you can assume that they will take the details from it. **You do not need to carry ID** (this includes people without British citizenship) and we recommend that you leave any ID at home if you are attending a protest.

According to their [interim guidance](#), Police Scotland will now conduct searches on the basis of 'biological sex', but if 'operationally viable' then a trans person may request to be searched by an officer of their 'lived gender'. If there is no officer available of the same gender who will consent to carry out the search, then the trans person will be 'supervised' for a 'reasonable time' until one becomes available, but if this takes too long or 'the risk is deemed too great' (the policy does not define how long or how this risk will be determined) then the search will be carried out by an officer of the 'same

biological sex' as the trans person. Officers are not required to search a trans person if they do not wish to.

The interim guidance also allows trans people to request a 'separate area search', where 'one half of their body will be searched by one biological sex officer and the other half of their body will be searched by a different biological sex officer.' We presume that as above, the same stipulations would apply, that this must be 'operationally viable', require consenting officers to be available, and be able to take place within a 'reasonable time'.

The policy does not mention non-binary trans people explicitly. In theory, a non-binary person could request to be searched by a non-binary officer, as they would be of the same 'lived gender' as them, but it doesn't seem likely that this would be possible in a reasonable time due to a low number of non-binary officers. It may be possible for non-binary trans people to request to be searched by a male or female officer who is not the same "biological sex" as them, if this would feel more appropriate based on their gender identity. However, this possibility is not covered in the interim guidance, so this is very uncertain. 'Lived gender' is never defined by the interim guidance.

You are not legally required to tell the police your gender identity or trans status, including during a stop and search. However, if you do not share these details, the police will guess your 'sex' based on your appearance. This means that you may be misgendered and searched by someone who does not share your identity - but it does allow you to maintain your anonymity. If you decide that it is more important for you to be searched in line with your gender identity, you may choose to disclose that you are trans and request to be searched by an officer that shares your gender. In these circumstances, you will be required to provide written consent to be searched by an officer of a different gender as assigned at birth, which does mean sharing limited personal details with the police (your name and signature). It is not possible to sign the consent form anonymously, or be searched by an officer that shares your 'lived gender'

if you are trans and choose not to sign the consent form. It is important to remember that you can only be asked to provide consent regarding *who* is searching you (i.e., with respect to the officer's gender identity); you cannot be asked to consent to being searched in general, the police must have a legal basis for the search.

The police can only give you a 'pat-down search' on the street. You can only be asked to remove outer layers of clothing (e.g., your coat, gloves, hat). You will be asked if you have anything sharp on you that could injure them during a search and failure to tell them about something which injures them can be a crime. If you are attending a protest, it is best not to bring needles with you. After a search police should give you a 'receipt' of the search. This may be helpful if you want to make a complaint later.

At the time of writing Police Scotland are [carrying out consultations on their stop and search policies](#), including how they treat trans people, so these may change. A final version is expected to be published in September 2026.

Testosterone

Testosterone is a controlled substance under the Misuse of Drugs Act 1971.

Carrying testosterone which you don't hold a prescription for could lead to an arrest if they are found on you during a search. Oestrogen is not a controlled drug.

It is not an offence to carry testosterone that has been prescribed to you. If you are attending a protest and need to bring your testosterone, you should bring it in the original packaging along with your prescription.

Your Rights in Custody

Police Scotland's Standard Operating Procedures (SOPs) on the 'Care and Welfare of Persons in Police Custody' is currently under review. Previous SOPs have included limited policies, such as holding trans people on their own in single cells. At the time of writing, Police Scotland don't provide any policies regarding the rights and treatment of transgender people in police custody.

In June 2026, [the Outer House of the Court of Session found that the Scottish Prison Service's \(SPS\) policy](#) of undertaking individual risk assessments to decide whether some trans people could be held on prison estates matching their gender identity was unlawful. Following this judgment and the Scottish Government's decision not to appeal the case, SPS moved all trans prisoners held in line with their gender identity to estates matching their 'biological sex at birth'.

It is important to be aware of this if being moved from Police Scotland's custody to an SPS estate, but also if the updated 'Care and Welfare of Persons in Police Custody' SOP does mention how trans people should be held in custody, we would expect this to be in line with this judgment and on the basis of 'biological sex'.

Further Reading & Resources

SCALP. *Guide to Activism, Scottish Law and the Police.*

<https://www.scottishactivistlegalproject.co.uk/guide-to-activism-scottish-law-and-the-police-updated-4th-edition/>

Trans Legal Clinic. <https://www.translegalclinic.com/>

Kevin Guyan, Abolitionist Futures. *More Categories are Not Enough – Hate Crime, Queer Lives and an Argument for Abolition.*

<https://abolitionistfutures.com/latest-news/more-categories-are-not-enough-hate-crime-queer-lives-and-an-argument-for-abolition>