

Trans Equality Guide

Introduction

Sandwell Metropolitan Borough Council celebrates and values the diversity of its workforce and is fully committed to providing an inclusive working environment for every employee. In this regard, the School will provide a safe and productive workplace environment for trans employees.

Sandwell Council and the School recognises that there can be differences between a person's assigned gender and their gender identity/expression. The School will adopt an inclusive approach, will not discriminate against trans employees and will provide support to trans employees through any transitioning process.

Sandwell Council and the School will not tolerate discrimination, victimisation or harassment based on a person's gender identity or gender expression.

This guide aims to support Headteachers and colleagues of trans employees. Trans employees should also use it as an outline of the Schools responsibilities to them. It includes general good practice for supporting trans employees and guidance relating to those who undertake transition at work.

Definitions

What do we mean by Trans?

'Trans' or 'Transgender' is an inclusive term to describe people whose gender is not the same as, or does not sit comfortably with, the sex they were assigned at birth.

Someone who's identity differs from biological sex will often identify themselves as trans.

How does this relate to sex?

Your sex is based on the biological characteristics used to label people as male or female such as X and Y chromosomes, internal and external sex organs and hormonal levels.

A lot of people think that the only sexes are male or female but, although this is biologically true for most of the population, everyone has their own unique body and hormone levels. These factors combine to affect us in different ways.

Some people are born intersex, which is a general term used for a variety of conditions where a person is born with biological characteristics (such as hormones, chromosomes, reproductive or sexual anatomy) that don't seem to fit the typical definitions of male or female.

What is Sexual Identity?

Your sexual identity relates to who you may (or may not) be romantically or sexually attracted to. This isn't related to gender identity. Someone who identifies as trans or non-binary could identify as heterosexual, gay, lesbian or bisexual etc.

What is Gender Identity?

Your gender identity is how you identify and present yourself, for example as a man, or as a woman.

Gender isn't about what reproductive or sexual anatomy you were born with, but how you feel about yourself. Some people are transgender, which means their gender identity doesn't align with their biological sex and / or their sex as registered at birth.

Individuals should be free to present their gender in different ways and their gender identity may be fluid and can change throughout their life as they explore their identity.

Some people's gender identity may not fit into a strict male or female category which means they may identify as non-binary, or gender fluid, or in some other way.

Just because someone does not conform to societal stereotypes concerning gender does not mean that they identify as trans or that they are exploring their gender identity. Having an interest in activities that are perceived as being 'male' or 'female' interests should never in itself be seen as suggesting that someone's gender does not align with their sex registered at birth.

What is Gender Reassignment (Transitioning)?

Gender reassignment or 'Transitioning' is the term used to describe the process which someone goes through to live as a different gender from their sex at birth. This can be a lengthy and difficult process and may involve medical interventions to help a person's body and physical appearance align more closely with their gender identity.

Not all trans people will be able to or chose to undergo any medical treatment to support their transition, and either way should be treated in line with their gender identity.

It is important to remember:

- Trans identities are diverse. Trans people may identify in lots of different ways.
- Not everyone identifies as a man or a woman. Sometimes, people assume that being trans is about feeling you are the 'opposite' gender. This is true for some trans people, but not for others. This assumption makes things difficult for those who don't identify as a man or a woman, for example non-binary people.
- Not every trans person will want to transition but may still like, or benefit from, ongoing support of some kind.
- Language is important. Employees sometimes worry about using the correct language when talking about gender identity and are often concerned about 'getting it wrong'. The first step is that all employees should refer to the trans person by their preferred name and pronouns for example they, them, he, his, she, hers.

- A full list of useful terminology is available via Stonewall at: <https://www.stonewall.org.uk/help-advice/glossary-terms> and can be used to help build staff confidence around trans terminology.

Supporting Transition at Work

It should be recognised that not all gender variant employees will identify as transgender and some may simply be exploring their gender identity for many different reasons. Some employees might revert to their 'birth' gender and should be supported in this process with as much care as those who choose to commit to their 'new' gender. Providing support to a trans person at any particular point in time does not signal that they are or will conform to any single trans identity or follow any particular path of transition.

Headteachers should support employees practically and emotionally wherever their journey takes them. It is important to listen to the employee, and wherever possible and practicable, follow their lead and preferences.

For those that do undergo gender affirmation this may refer to social transition (changing name, title, clothes etc.), medical transition (hormones and/or surgery) or both.

The Equality Act 2010 provides protection from discrimination for trans people who have undergone, are undergoing, or intend to undergo gender affirmation (described legally as gender reassignment). Any harassment and discrimination of a trans employee would lead to disciplinary action.

One of the most important factors in successfully supporting an employee's transition is planning and agreeing with them how to manage the process. Lack of support at this stage could have a significant impact on the employee who may have taken years to decide to take this step.

It can be an extremely difficult step for someone to approach their Headteacher about transitioning. It is imperative that confidentiality is maintained at all times.

Headteachers of employees planning to transition should consider the following and refer to the Support Plan at the end of this document:

- Listen and show support. Let the employee lead the process as much as possible and reassure them that the School will support them during the transition.
- A member of HR and/or a trade union representative can be present at any meetings if required.
- Agree the date the employee wishes to present in their gender.
- Discuss levels of confidentiality – is there anyone who needs to know, such as colleagues who will work alongside the employee before and after transition?
- Discuss how this communication will take place.
- Discuss whether to avoid duties within the role at specific times during the process e.g. lifting heavy items, strenuous physical work (for those who are undergoing surgery/medical intervention).
- Assess the expected timescale of appointments related to transition and what

time off is likely to be required. It is important to remember that appointments are outside the control of the employee and a flexible approach to time off will be required.

- Be supportive of the employee if their style of dress changes during the process.
- Discuss whether they may benefit from some internal or external support such as the Council's Employee Assistance and Counselling Service.
- Take a note of the discussions and draw up a support plan with the employee. Keep the plan updated as needed; it should not be a static document.

Consent and Confidentiality

Under no circumstances should any communication or actions be taken without the explicit consent of the individual. The support plan must be kept strictly confidential and any records destroyed after the person has successfully transitioned.

Employees who have undergone gender affirmation may be eager to protect their privacy surrounding their trans history. Anyone with access to relevant information must maintain the trans employees right to confidentiality.

It is important to understand that one of the most significant moments will be when the individual wishes to start presenting in their preferred gender publicly. It is crucial that this is managed and communicated in an appropriate manner to those that have a working relationship with the individual.

It is important for the employee to be in control of this process; who they want to know, when this should happen and who should tell them. Also, while there is no reason why a person cannot continue to work directly with pupils/students/clients/service users, some employees may feel that they would like to change their role in the School for a while or permanently. The School will accommodate these changes if possible.

Practical Arrangements

It is important to match good intentions with practical action. Consider arrangements about access to toilets, changing rooms etc. where necessary, for those that undergo gender affirmation. Some trans employees may prefer to use gender neutral toilets, while others will wish to use facilities that match their affirmed gender.

The School expects all employees to be sensitive and respectful to the dignity of colleagues. The School will deal with any concerns raised on a case-by-case basis in a sensitive manner, carefully balancing the issues to make a reasoned decision.

Use of disability accessible toilets as an alternative is not acceptable, trans identity is not a disability and accessible toilets should be prioritised for those that need them.

Dress Code

If a uniform is in place for the role, Headteachers will ensure that trans employees are able to wear the uniform they feel most comfortable in. This will empower them as it allows the outward expression of their identity. This can be done by having a generic list of acceptable uniform not separated by gender.

Flexibility is required in dress codes as some trans employees will require access to both male and female clothes.

Trans employees have the right to comply with any dress codes in a way that reflects their gender identity and gender expression.

Headteachers will be flexible and will support the preferences of the trans person wherever possible.

Recruitment

Individuals who have already transitioned have no obligation to inform the School of their gender history.

Job applicants and interviewees should not be asked their gender identity during the recruitment process as this is not a relevant selection criterion. If they choose to disclose, this is not in itself a reason for not offering employment. Appointing officers who become aware that an applicant is trans will maintain full confidentiality of this and will not disclose this information.

Name and Title Changes

Employees can change their formal name at the School on production of a deed poll. More informally they can also request a 'preferred' name and or a change of title on their records, which will be visible on the employee directory, email address and updated ID badge. A Gender Recognition Certificate is unnecessary to change an employee's name. A Gender Recognition Certificate is only needed to obtain a new birth certificate.

Once a trans person has made known their chosen name, this name should be used in all circumstances, rather than their birth name.

DBS Checks

The Disclosure and Barring Service (DBS) offers a confidential checking service for transgender applicants in accordance with the Gender Recognition Act 2004. This is known as the sensitive applications route and is available for all levels of DBS check - basic, standard and enhanced.

The sensitive applications route gives transgender applicants the choice not to have any gender or name information disclosed on their DBS certificate, that could reveal their previous identity.

References

When an organisation requests a reference, the School will make the request using the employee's appropriate name and gender since transitioning.

Genuine Occupational Requirements (GOR)

In some instances, being a particular sex is an 'occupational requirement' of that post. If an employee experiences difficulties due to their transition, then they should seek advice from HR.

Qualification Certificates

It can be difficult and expensive for a trans person to change their qualification certificates. If these are in former names, then where possible a record will be made that a certificate has been seen, but a copy will not be taken. If it is absolutely necessary for the School and/or the HR Provider to store a copy, they will be stored securely and only accessed by appropriate people

Professional Registration

If the employees job involves professional registration, Headteachers will check whether the registration body has a specific, confidential process for gender transition.

Pension Arrangements

Trans people will be advised of the different implications of whether they do or do not have a Gender Recognition Certificate.

Time Off for Appointments, Treatment and Surgery

The Equality Act (2010) states it is discrimination to treat a trans person less favourably in work because they require absence for any part of the medical processes involved with gender reassignment (e.g. due to recuperation, counselling or medical appointments). This includes all related treatments (e.g. hormone therapies, surgical procedures), and also extends to any rectification of related surgical procedures if these are required.

Therefore, where an employee has periods of sickness absence as a result of their transition, these absences will not be counted in relation to absence monitoring, included in absences for references, taken into consideration for performance monitoring or during redundancy procedures.

Employees are also entitled to paid time off to enable them to attend their transition related appointments and treatment.

Employees may have to travel long distances for appointments, and these may be given at short notice. Employee's may need reduced hours or duties, or other changes to usual working arrangements, for a temporary period following some treatments. Headteachers should be as flexible as possible to accommodate this.

Roles and Responsibilities

The Employee

- Engage with Headteachers, HR and Occupational Health around the logistics of transitioning in the workplace.
- Report any incidents of harassment, victimisation or discrimination to their Headteacher.

Other Employees

- Act in accordance with this guidance

- Report any incidents of harassment, victimisation or discrimination to their Headteacher.
- Contribute to a respectful and productive working environment.
- Be willing to help and support their colleagues.

Headteachers

- Act in accordance with this guidance and ensure that all employees do too.
- Ensure that colleagues are informed about the employee's transition in a manner that best suits the employee.
- Maintain confidentiality at all times.
- Support the employee in any way that is necessary and appropriate.
- Thoroughly investigate any instances of harassment, victimisation or discrimination.
- Hold regular reviews with the employee.
- Ensure that a trans person is addressed and treated as the gender they identify with.
- Advise ICT and their HR provider of any name changes.

HR

- Ensure that the guidelines are followed at all times.
- Maintain confidentiality, including securing paper documents and files.
- Changing names, titles and pronouns on the appropriate systems.
- Issue updated security and ID passes.
- Ensure the appropriate support is available to the employee at all time.

Occupational Health

- Signpost to appropriate sources of help and advice.
- Provide access to the Councils Employee Assistant Service which offers 24/7 telephone counselling and face-to-face counselling for all employees on **0808 168 2143**.

Sources of Useful Information

The Gender Trust www.gendertrust.org.uk

Transgender Zone www.transgenderzone.com

Press for Change www.pfc.org.uk

Trans Unite www.transunite.co.uk

Unique TG Network www.uniquetg.org.uk

Stonewall <https://www.stonewall.org.uk/>

All About Trans www.allabouttrans.org.uk/support-organisations/

GIRES - www.gires.org.uk/

These guidelines were developed in conjunction with Sandwell Council's recognised Trade Union colleagues.