

TRANS EQUALITY POLICY (to be read alongside the general equalities policies)

Reviewed without change: June 2020
Status: Non-statutory

Background

The Equality Act 2010 brought together all matters of equal opportunities and it is the main legal reference on equal opportunities. Potential gender discrimination applies to both males and females and makes it unlawful to discriminate against any person on the grounds of gender. It also applies to transgender matters. Such a person is referred to under the Equality Act as a transsexual person.

Absence from work because of gender reassignment cannot be treated less favourably than absence because of sickness or injury.

The public sector equality duty requires public authorities to have due regard to the need to eliminate discrimination, harassment and victimisation against transsexual people, to advance equality or opportunity and foster good relations between transsexual people and others.

The Equality Act sets out a number of 'occupational requirement' exceptions that employers can rely on in discrimination claims in respect of recruitment, access to promotion, transfer or training or dismissal. For example, not being a transsexual is an occupational requirement, having regard to the nature or context of work, or where the requirement not to be a transsexual person is a 'proportionate means of achieving a legitimate aim'. The onus is on the employer to prove such an exception applies. Such exceptions will be rare.

The Gender Recognition Act 2004 gives people with gender dysphoria legal recognition as members of the sex appropriate to their gender (male or female) allowing them to acquire a new birth certificate, affording them full recognition of their acquired sex in law for all purposes, including marriage. Under section 22 of the Gender Recognition Act 2004, it is an offence for a person who has acquired protected information in an official capacity to disclose the information to any other person, unless the individual has provided consent.

The Human Rights Act 1998 supports transgender individuals with the right to a private and family life.

The Data Protection Act 1998 (soon to be General Data Protection Regulation (GDPR)) provides for gender reassignment and any information about an individual's gender history to be treated as 'sensitive data' which can only be processed for certain specified reasons.

In May 2014, the DFE published 'The Equality Act 2010 and schools'. This is non-statutory advice for school leaders, school staff, governing boards and local authorities (LAs) to assist them in understanding how the Equality Act 2010 affects them and how to fulfil their duties. In November 2015, the Government Equalities Office published 'Recruiting and retaining transgender staff: a guide for employers'.

Harlington School is committed to ensuring that transgender individuals receive equal treatment and protection from discrimination at work. This includes equality of opportunity throughout recruitment and employment. The school recognises that the period of transition can be very complex and difficult for an individual and we are committed to acting in a supportive and sensitive way throughout any transitioning process. The school respects an individual's right to self-identify as male or female and we commit to recognising all employees of the school as the gender in which they choose to present.

This policy does not anticipate every situation that might occur with respect to transgender individuals. The needs of each transgender staff member must be assessed on a case-by-case basis.

Aims

This policy is designed to:

- Ensure that transgender members of staff do not fear social stigmatisation through non-acceptance in the general workplace.
- Provide an environment in which a transgender member of staff is treated with dignity and respect.
- Support colleagues to be more aware of gender identity issues and to have a respectful and flexible approach towards individuals who are considering undergoing, have undergone, or are in the process of undergoing gender reassignment.
- Ensure that transgender staff can feel valued, supported and have appropriate advice and encouragement for their professional development.
- Ensure the principles and practices of equal opportunities apply to all members of the school community.

Gender reassignment

'Trans' or 'transgender' describes people whose gender identity differs from their sex assigned at birth.

This policy relates to staff members who are proposing to undergo, are undergoing or have undergone a process (or part of a process) for the purpose of reassigning their sex by changing physiological or other attributes of sex.

This is a personal process for the individual which may involve:

- Medical interventions.
- Counselling.
- Psychotherapy.
- Hormone therapy or surgery.

The school recognises that there is no right or wrong way to transition and is committed to supporting each individual in their decisions.

Privacy

The school will respect the confidentiality of all transgender individuals and the right of transgender individuals to discuss their gender identity openly, or to keep that information private. It is for the transgender member of staff to decide when and how much information to share and with whom. The school encourages individuals to talk to their manager openly about the situation as early as

possible, so the appropriate support can be provided. Any information shared with management or human resources should not be disclosed further to any others without the individual's specific consent.

Pre-employment transition

Any individual who changes gender before entering employment is under no obligation to inform either management or colleagues of their gender history. If an individual chooses to disclose this information, full confidentiality will be respected and maintained in relation to the information shared.

Transition during employment

The school is committed to ensuring that all individuals who elect to transition during their employment will be treated with respect and dignity by all members of staff. Support will be provided as appropriate to ensure a safe and comfortable environment during the transition period.

Notifying management

The timing of the initial approach to management is a matter for the individual to decide. Those wishing to undergo gender reassignment should discuss the matter with their immediate line manager, who would typically be the point of contact during the transition period. Due to the sensitive nature of the matter, individuals are free to elect an alternative point of contact, such as a union representative, but a member of senior management must remain involved. The point of contact is under a duty to maintain confidentiality except as otherwise agreed by the individual.

Developing an action plan for managing the transition

It is important at an early stage for the individual and management (usually the line manager) to agree on an action plan to make the transition work as smoothly as possible. This could include discussions with regards to:

- The anticipated date for change of name, personal details and social gender.
- The main point of contact.
- Changing work equipment, such as identity badge, photo.
- Details of any medical appointments and the anticipated absence.
- Whether any additional counselling will be required.
- When and how colleagues should be informed.
- Any specific support required on return to work.
- How to handle any harassment or media interest.

Regular meetings will be held to discuss the progress of the action plan and any additional support required.

Time off for medical and surgical procedures

As far as possible, the line manager should discuss with the individual how much time off the individual will require to undergo gender reassignment treatment.

The school will provide a member of staff who is undergoing gender reassignment with a reasonable amount of leave for appointments related to the transition process.

If an individual is absent for a long period, absence monitoring in accordance with the school's absence management policy may apply.

Informing colleagues, pupils and parents

Individuals will be encouraged to inform colleagues, pupils and parents of their transition.

Before making the disclosure, the individual should discuss with their line manager how and when the disclosure will take place, and in what detail, so appropriate support can be provided. Alternatively, a member of the senior leadership team can disclose on the individual's behalf. This will not be done without the individual's explicit consent and agreement on the way in which the disclosure will be made and the information to be provided.

Once the transition process is complete, it is never appropriate to inform colleagues, pupils, parents or any other third parties that the individual had in the past undergone gender reassignment. Any disclosure of this nature is unlawful.

Changing records

The school will update records in a timely manner and to coincide with the date on which the workplace transition begins. Certain types of records, such as payroll and those relating to pensions, may require a legal name change and a copy of an amended birth certificate or gender recognition certificate before they can be amended. Paper records will be updated where possible. Those which cannot be updated will be stored in a secure place and clearly marked confidential.

Following disclosure by an individual of their gender reassignment, or proposed gender reassignment, all staff will be expected to address the individual by the name and pronoun corresponding to the individual's gender identity. The intentional or persistent refusal to respect an individual's gender identity can constitute harassment and may be dealt with accordingly under the school's disciplinary policy.

Dress code

Individuals who have undergone gender reassignment, or are undergoing gender reassignment, have the right to dress in a way consistent with their gender identity. Any such clothing should be in accordance with the school's dress code policy.

Facilities

The line manager and individual should agree the point at which the use of facilities, such as toilets and changing rooms, should change to correspond with the individual's new gender identity. It is advisable that the individual starts to use the revised facilities for their new gender at the point where they begin to live in that gender, irrespective of the progress of any surgical or medical procedures.

Under no circumstances should an individual be expected, after transitioning, to use the facilities of their former gender.

Bullying and harassment

The school will not tolerate any bullying or harassment relating to an individual's gender reassignment or identity. Any such incidents or use of inappropriate behaviour or language will be dealt with accordingly under the school's Anti-bullying policy (students) or the Staff Disciplinary policy.

