

Trans Equality Policy and Procedure

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Version control

This document is subject to regular review due to legislative and policy changes. The latest versions of all our publications can be found on our website. Before contacting us about the content of this document, we recommend that you refer to the most recent version on the website and any relevant guidance.

Version	Date approved	Approved by	Notes / changes
v1.0	30/07/2019	Full council	New Policy
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Roles and Responsibilities

Employee

- Engaging with managers and HR around the logistics of transitioning in the workplace
- Reporting any instances of harassment, victimisation or discrimination.

Manager

- Ensuring that colleagues are informed about the employee's transition in a manner that best suits the employee
- Maintaining confidentiality at all times
- Thoroughly investigating any instances of harassment, victimisation or discrimination
- Supporting the employee in any way that is necessary and appropriate.

HR

- Ensuring that this policy is followed at all times
- Maintaining confidentiality, including securing paper documents and files
- Changing names, titles and pronouns on HR systems, Payroll/Pensions systems
- Issuing updated security passes and ID badges
- Ensuring that appropriate support and communication on this policy is available to employees.

IT Department / Support Services

- Changing names, titles and pronouns on email and other IT systems.

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Trade unions

- Supporting the employee if they experience harassment, victimisation or discrimination
- Discussing and agreeing any changes to this policy.

Occupational Health

- Supporting the employee
- Changing names, titles and pronouns on the Occupational Health system.

Introduction & Definitions

This policy has been formulated to provide general guidance and policy advice to employees and managers about Trans and genderreassignment issues. The Policy informs on what gender reassignment/transition is, the relevant legislation, and how employees can be supported when transitioning to a gender different to that which they were assigned at birth.

This policy applies to all employees including teachers, casual workers, temporary workers from Employment Agencies and contractors.

Trans is correctly used as an adjective, rather than a noun e.g. 'a trans person', not 'a trans'.

Transgender is an inclusive term for people whose gender identity differs from that which they were assigned at birth. They are umbrella terms covering people who:

- Are intending to undergo, are undergoing, or have undergone gender reassignment at any stage;
- Identify as having a gender different from that which they were assigned at birth and are planning to have or have had medical interventions such as hormones or surgery.

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- Identify as having a gender different from that which they were assigned at birth, but who aren't planning any medical intervention; and/or,
- Are non-binary – that is, they are not solely male or female. They may define themselves as both, neither or something entirely different. They may not have medical interventions to align their body with their non-binary gender identity.

Please refer to the Glossary for further details.

Aims

Denbighshire County Council is committed to being a fair and inclusive employer and will not discriminate against an applicant or employee or who identifies as trans.

Trans employees are entitled to be treated with respect and permitted to perform their roles free from harassment and unfair discrimination. Denbighshire County Council views harassment or discrimination against any employee on any grounds as a serious disciplinary offence.

People are protected against harassment or discrimination in the workplace because of their gender identity under the Equality Act 2010. The council is committed to complying with relevant legislation and codes of practice as a minimum benchmark. Wherever possible we strive to exceed legislative requirements by developing policies and procedures that help us to achieve our aim of being a working environment that is fair and supportive to individual needs and one which expects all employees to be treated with fairness, dignity and respect.

Responsibilities

All employees are responsible for helping to ensure that individuals do not suffer any form of discrimination as a result of their trans identity, and that they are supportive of individual needs. Every person working for the council will be accountable for the operation of this policy as they carry responsibility for their own behaviour and actions, on and off site during working hours or any activity associated with their employment.

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All employees in a managerial position are responsible for seeking to prevent any infringement of the policy amongst the employees in their area and taking action where appropriate.

Human Resources will be responsible for ensuring that appropriate support and communication on this policy is available to employees.

What is Gender Reassignment/Transition?

There are a small number of people in the United Kingdom whose gender identity does not match that which they were assigned at birth. This is sometimes called gender incongruence, or gender identity disorder. Such people are known as 'trans people'. Medical treatment to enable trans people to alter their bodies to match their gender identity is highly successful. The process is known medically as 'gender reassignment', or more commonly 'transition'. There is no requirement for trans people to undergo any surgical procedures in order for their gender identity to be recognised.

Gender Recognition Act

The Gender Recognition Act 2004 allows binary-gendered trans people (who are able to satisfy the necessary evidential requirements) to apply for full legal recognition of their gender. Following a successful application, by issuing them with a Gender Recognition Certificate, the law regards the trans person, for all purposes, as being of their gender.

Relevant Legislation

The Equality Act 2010 has strengthened and streamlined previous equalities legislation. 'Gender reassignment' is one of the nine protected characteristics within the Act and is also included in the Public Sector Equality Duty. The Equality Act 2010 provides protection against direct and indirect discrimination, discrimination by association, discrimination by perception, discrimination in cases of related absence from work, and all forms of harassment and victimisation. Those protected include:

- Actual and prospective employees.
- Ex-employees.

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- Apprentices.
- Some self-employed workers.
- Contract / Agency workers.

The definition of 'gender reassignment' within the Act gives protection from discrimination to a person who has proposed, started or completed a process to change their sex. The Act also provides protection as outlined below:

- To trans people who are not under medical supervision.
- To people who experience discrimination because they are perceived to be trans people (for example: a member of staff refuses to serve a customer because they believe the customer to be a trans person, whether they are or not).
- To people from discrimination by association because of gender reassignment (for example: a member of staff is spurned by their colleagues because their partner has undergone gender reassignment).

The Human Rights Act 1998 provides protection to trans people, principally under the right to a private life.

What is 'Discrimination on the Grounds of Gender Reassignment'?

It is unlawful to discriminate against someone if they:

- Intend to undergo gender reassignment, or
- Are undergoing gender reassignment, or
- Have at some time in the past undergone gender reassignment.

The council commits to extending this protection to all trans people. Discrimination in this context means treating a trans person less favourably than you treat (or would treat) another applicant or employee who is not trans, which includes harassment and victimisation.

Complaints from employees relating to Harassment and Bullying on grounds of their trans identity will be dealt with under the appropriate HR Policy.

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Supporting Employees

An employee going through the process of transitioning can seek support from their line manager, HR or Occupational Health Adviser. Self-referrals can also be made to Occupational Health. It is a matter of personal choice as to who should be contacted, but it is recommended that the contact person works with the employee to agree an action plan to cover the period of their transition. It is imperative that confidentiality is maintained at all times.

All employees should refer to the trans person by their preferred name and pronouns.

If an employee is in a possession of a gender recognition certificate, it is unlawful to disclose their trans status without their consent. The council commits to extending this protection to all trans people.

If the council holds any records which include a trans individual's former legal name and gender/pronouns, the trans individual concerned may request that all instances of them are expunged from the council's records.

Transition Action Plan

The employee and their main contact should write an action plan together (see Transition Action Plan) for managing their transition. This will include agreeing dates of relevant transition milestones and communication plans, the council being guided at all times by the individual's preferences. Under no circumstances should any communication or actions be taken without the explicit consent of the individual. These action plans, together with any other notes of the meeting, must be kept strictly confidential in the individual's personnel file as appropriate. After a person has successfully transitioned, or obtained a gender recognition certificate, these records should be destroyed. The trans individual may request that such records are destroyed at any time.

Use of Single Sex Spaces

The council is committed to supporting the right for trans people to use the correct facilities for their gender identity, including changing rooms and toilet facilities.

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A trans person should never be required to use disabled toilet facilities, nor facilities of their former assigned gender.

Where women/men - only spaces exist within the council, they should be open to all who self-define as women/men, including trans women/men.

Informing Colleagues

The manager and the employee will discuss the individual's preferences in relation to informing others, including other managers, colleagues, service users and other relevant contacts. They will agree whether the employee will do this, whether they would prefer the manager or a work colleague to do this, or a mixture of these options. They will also get express written agreement from the employee about when and how this will happen, including the details of the message and who it will be shared with. Levels of disclosure may vary in detail for different types of the contacts and will be in advance.

Sickness and Absence

In putting together the transition action plan, Should employees plan and arrange elective procedures they will be considered absent from the work place under the Attendance at Work Procedure. When the individual is absent for treatment or surgery, then normal sick pay arrangements (Occupational and SSP) or absence arrangements should apply. The normal policy for medical appointments should also apply, flexibility should be offered in taking holiday or rearranging working hours in order to attend medical appointments.

Where a sick note is required, it does not need to state the procedures performed. Managers are able to select a box within iTrent People Manager which will not display the reason for sickness in any subsequent reporting.

Gendered Language

Wherever an individual's title is requested, the options 'Mx' and no title should be made available. Wherever the gender identity of an individual is requested, the options 'Other' and 'Prefer not to say' should be included.

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Whenever possible all official council correspondence should use non-gendered terminology when referring to a group of individuals or an individual of unspecified gender identity. For example, instances of 'he/she' should be superseded by 'they'.

All council employees should refer to trans individuals using their preferred name and pronouns. Please refer to the Glossary for further details.

Changing Name and Gender

In order to change the name held on record with the council, an individual should present a deed poll or statutory declaration. No further documentation will be required.

No documentation is required in order to change the title & gender held on record for an individual with the council.

A substitute identity card can be issued at an agreed date, once all the appropriate data systems have been updated with the new information.

DBS Checks

The DBS has developed a separate application procedure, which allows trans applicants to exclude previous names from the Disclosure Application form. However, applicants will still be required to send details of their previous legal identity in a separate correspondence directly to the 'Sensitive Casework Team'.

Please refer to the DBS and Safeguarding Policy for further information.

Dress Code

The council does not have a dress code that restricts employees clothing or appearance on the basis of their gender identity. Flexibility is required in dress codes while someone is early in transition, as they will often have to buy new clothes, and this should be discussed with the individual, taking into account any health and safety dress codes that the council has which are applicable to all employees. Trans employees have a right to comply with any dress codes in a way that reflects their gender identity and gender expression.

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

Recruitment

Individuals who have already adopted their new social and/or legal gender have no obligation to inform the council of their gender history. Job applicants and interviewees should not be asked their trans status, as this is not a relevant criteria in section. If they chose to disclose, this is not in itself a reason for not offering employment, and non-disclosure or subsequent disclosure on grounds for dismissal. Appointing officers who become aware that an applicant is trans will maintain full confidentiality in relation to this.

Genuine Occupational Requirements (GOR)

In the vast majority of cases, the gender of a worker is of no relevance to their ability to do a particular job. However, the Equality Act 2019 does allow for an exception where being of a particular sex is an 'occupational requirement' of that post. If this is the case for an employee transitioning at work, they will be supported by the Redeployment Policy.

References

When an organisation requests a reference, we will make the request using the employee's correct name and gender since transitioning. We will not mention previous names or gender identity, unless specifically asked to do so (in writing) by the trans person.

Professional Registration

If the employee's job involves professional registration, we will check whether the registration body has a specific, confidential process for gender transition.

Qualification Certificates

The council recognises that it be difficult and expensive for a trans person to change their qualification certificates. If these are in a 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

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necessary for the council to store a copy, they will be stored securely and only accessed by named persons.

Example of Action Plan to support employees

Action Plan to support employees transitioning
Name:
Does the employee feel comfortable continuing in their current role? Are there any temporary or permanent changes to the role which should be considered to support the employee? (Considerations should include security aspects such as lone working, night working).
What is the expected timescale of any medical and surgical procedures, if known?
Is any time off required for medical treatment? If so how will this be dealt with?
What will the employee's new title, pronouns and name be?
When do they wish to start using this name, pronouns and title? Will there be any phasing?

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Action Plan to support employees transitioning
When do they wish to start dressing and presenting as their acquired gender? Again will this be phased? (This may not necessarily be the same date as above.)
Are there any dress codes which need to be considered? (Do new uniforms need to be ordered?)
When does the employee wish to use toilet and changing facilities appropriate to their acquired gender? Please note disabled toilets should not be suggested as an alternative.
When, how and which Human Resources records and or systems will need amending?
When and how should colleagues be informed of the transition? Is there any education material which could be used? If this action plan is not drawn up with input from line manager/and or Human Resources consider how and when they might need to be involved.
If any bullying or harassment occurs how will it be dealt with?
Actions Agreed

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Action Plan to support employees transitioning
Date of next meeting

Glossary

Gender identity: a person's deeply felt internal and individual experience of gender, which may or may not correspond to the sex assigned to them at birth

Gender expression: a person's external gender-related behaviour and appearance, including clothing

Transgender or trans person: a person whose gender identity does not conform to the sex they were assigned at birth. These are inclusive, umbrella terms, including people who describe themselves as transsexual, cross dressing people, and people who have a more complex sense of their own gender than either 100% female or 100% male

Gender binary: the classification of sex and gender into two distinct and disconnected forms of masculine and feminine

Gender variance: gender expression that does not match society's norms of female and male

Non binary person: a person who does not identify as solely male or female. They may identify as both, neither or something entirely different

Gender fluid: having a gender identity which varies over time

Transsexual person: legal/medical term for someone who lives (or wishes to live) permanently in the 'opposite' gender to that assigned at birth

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Gender dysphoria: medical term for deep-rooted and serious **discomfort or distress because of a mismatch between a person's biological sex and gender identity;** overwhelming desire to live in a different gender to that assigned at birth

Gender reassignment: the process of transitioning from the gender assigned at birth to the correct gender. This may (or may not) involve medical and surgical procedures.

Legal sex: The sex recorded on your birth certificate. Rarely relevant at work. Currently binary in the UK. Changed by applying to Gender Recognition Panel.

Gender Recognition Certificate: issued by the Gender Recognition Panel – signifies full legal rights in acquired gender and allows the issuing of a replacement birth certificate.

Sources of useful information

The Gender Trust www.gendertrust.org.uk

The trust is recognised as an authoritative centre for professional people who encounter genderidentity related issues in the course of their work.

Transgender Zone www.transgenderzone.com

Support for transgender persons.

Press for Change www.pfc.org.uk

Press for Change is a political lobbying and educational organisation, which campaigns to achieve equal civil rights and liberties for all trans people in the United Kingdom through legislation and social change.

Trans Unite

<https://www.transunite.co.uk/> Find a support group near you.

Unique TG Network

<http://www.uniquetg.org.uk/>

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North Wales and West Chester Transgender Network.

Equalities and Human Rights Commission Wales

<https://www.equalityhumanrights.com/en/commission-wales> Equality information, help and support.

All About Trans

<https://www.allabouttrans.org.uk/support-organisations/>

Support Networks Self-Referral:

Employee Assistance Programme (EAP) Care First, Phone Number 0800 174319 or via website www.carefirst-lifestyle.co.uk

Counselling Service:

Employee Assistance Programme (EAP) Care First, Phone Number 0800 174319 or via website www.carefirst-lifestyle.co.uk

Occupational Health

All Occupational Health Enquiries should be sent to alana.nicandros@denbighshire.gov.uk