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Date: March 2023

Review: March 2025 or sooner if required

Human Resources Policies and Procedures for Schools Trans Inclusion at Work Policy

Operational Summary

Policy Aim

SEATON DELAVAL FIRST SCHOOL does not discriminate in any way on the basis of sex, sexual orientation, gender identity, or gender expression. This policy is designed to create a safe and productive workplace environment for all employees and provides a guide for supporting trans* employees, identifies the support offered to staff who are transitioning and the expectations of behaviour for other members of staff in relation to gender identity. The school understands the benefits to the community of having a diverse and highly effective workforce. The Council values the added contribution that its employees can make when it recognises their individual differences including trans* employees.

Transitioning is a term used to describe the process and steps an individual takes in order to live in the gender they identify as. For some this involves medical intervention, such as hormone therapy and surgeries, but not all trans people want or are able to have this. Transitioning could also involve dressing differently, changing official documents, telling friends and family that you are transitioning, or a number of other things. The terms 'trans people' and 'transgender people' are both often used as umbrella terms for people whose gender identity and/or gender expression differs from their birth sex. Some people have non-binary gender identities and do not identify as male or female, others define as gender variant. Throughout this policy the term trans* will be used to show the policy covers a range of possible gender identities.

Policy Summary

This policy gives an overview of gender identity and transitioning, a breakdown of the responsibilities of members of staff, an overview of legislation and further resources available and outlines considerations that need to be made in the workplace.

Consultation Process

Trade union representatives have been consulted on this policy. The policy will be communicated to all affected managers and will be available on the Human Resources pages of the Intranet.

Introduction

For the majority of people their innate sense of being male or female - their gender identity - matches their birth sex and they do not have any questions over their gender identity. However, there are some people whose gender identity does not match the gender they were assigned at birth. There are a wide range of ways that people can express gender identity and people should be free to express this in the way they are most comfortable with without facing discrimination. Individuals will always view themselves and their experience in a unique way, and will have personal preferences in terms of the language that their employers use, but we use the umbrella term “trans*” in this guidance, which includes people who identify as non-binary.

Some people will undergo a process of aligning their life and physical identity to match their gender identity, and this is called transitioning. Transitioning is a unique process for each individual and may include any number of changes to a person's life. There is no 'right' or 'wrong' way to transition. For some this involves medical intervention, such as hormone therapy and surgeries, but not all Trans people want or are able to have this. There may be a variety of reasons including cost, health needs, and time or simply not feeling the need to. Transitioning could also involve dressing differently, changing official documents, telling friends and family that you are transitioning, or a number of other things. The start of or intent to transition will be different for everyone. It's about the individual. After a person transitions they may not identify as trans; they may simply see the process as being part of their past and not current identity. For example, an individual who has transitioned and identifies as female, may refer to herself as a woman, not a trans woman. This personal decision should be respected at all times and communicated to any staff as necessary. Many people falsely believe that in order to transition a person must undergo a medical intervention, such as hormone treatment or surgery, or gain a Gender Recognition Certificate (GRC). It should not be assumed that the goal of every individual's transition is to change their physiology or legal gender. If a trans person chooses not to undergo any medical intervention or gain a GRC, they are still entitled to dignity and respect for their chosen gender identity.

1. Duties

Employees- All employees are responsible for the following:

- Working in a way that we treat all of our colleagues as individuals, without needing to reference their gender identity where this isn't necessary
- Supporting colleagues who are transitioning at work
- Helping all our colleagues to be more aware about gender identity issues – see the Trans Awareness Training on the Intranet and link to FAQ and Appendix 1 a guide to terms
- Ensuring that no-one experiences discrimination, harassment or victimisation on the basis of their gender identity
- Treating colleagues and members of the public in an inclusive and respectful manner regardless of their gender identity.
- Maintaining confidentiality about a person's previous gender identity. To 'out' someone, whether a member of staff or service user without their permission is a form of harassment and, in a number of contexts may also amount to a criminal offence
- Treating any issues of bullying and harassment in relation to gender identity seriously.

Headteachers– are responsible for ensuring that the work environment is supportive of people's gender identities and where appropriate supporting any of their staff members throughout their transition, discussing practical issues such as communication and facilities and listening to any concerns. Further information can be found in the accompanying 'Guidance for Managers' document.

Human Resources - are responsible for supporting Headteachers or acting as a neutral party if requested by an employee or a job applicant raising concerns or requiring additional support.

Governing Body - are responsible for adopting this policy and for hearing any complaints relating to this policy

2. Scope

This policy applies to all employees including those who are transitioning, planning to transition or who have transitioned or whose gender identity is gender variant or non-binary. Guidance on acceptable behaviour covers all employees, contractors, temporary workers and prospective employees. The policy also applies to job applicants.

3. Definitions

A full list of definitions can be found at Appendix One

4. Legislation

There is legislation in place which protects trans individuals from discrimination and offers certain rights. This is outlined below. Northumberland County Council strives to go above and beyond the duties set out in legislation in respect of gender identity.

The Equality Act 2010 protects nine groups of people from unlawful discrimination. These groups are known as 'protected characteristics'. One of these protected characteristics is Gender Reassignment. The law means that no employee, or potential employee, can be treated less favourably on the grounds of this protected characteristic.

The Gender Recognition Act 2004^[1] is an Act of the Parliament of the United Kingdom that allows trans* people to change their legal gender. The Act gives people 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. Many individuals feel that the act does not go far enough in its terminology and framework and this is due to be consulted upon in 2018. Any changes may lead to a change in this policy being required.

5. Entitlements and Considerations

5.1 Changing Name and Gender

An individual can request a change of name and gender at any time without any legal documents however to change information such as HMRC tax records an individual should present a deed poll or statutory declaration. This information will be treated in strict confidence. No documentation is required in order to change the title and gender held on record for an individual with the school. The person's former name and gender should not be used by the organisation

5.2 Gendered Language

Wherever an individual's title is requested, the options 'Mx' and 'no title' should be made available wherever possible. Some systems may not have this functionality and this should be discussed with the individual. Wherever the gender identity of an individual is requested, the options 'If you prefer to use your own term, please describe it here' and 'Prefer not to say' should be included. Whenever

possible all correspondence related to employment 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' this should be superseded by 'they' or 'their'. All individuals in school should refer to individuals using their preferred name and pronouns.

5.3 Pre-Employment

All individuals who have already adopted their new social and/or legal gender have no obligation to inform the school of their change when seeking or being offered employment. Should qualifications, certificates and right to work documentation be in a previous name. The previous names may need to be provided for compliance with recruitment procedures and asylum and immigration legislation. This information will only be shared with a dedicated colleague in the schools payroll provider for the purpose of compliance and will not be more widely accessible - a contact name will be provided for this purpose. If a disclosure and barring check is required applicants who have changed gender can apply for a confidential DBS check which will not disclose their gender change.

5.3.1 Criminal Records Checks

Criminal Records checking agencies have developed separate application procedures, which allow Trans applicants to exclude previous names from the Disclosure Application form. However, applicants will still be required to send details of their previous identity in a separate letter directly to the 'Sensitive Casework Team'. The Trans person has the choice as to whether they are content or not for their previous gender to be disclosed on their DBS Certificate.

If an applicant decides they do not wish for their previous identity to be disclosed to their employer and/or on their DBS Certificate, they should call the dedicated team in Customer Services. A member of this team will advise the applicant about the process and what they will need to do.

How the process works:

When the applicant calls the team, they are advised that "we do have a confidential checking process in place for applicants who do not wish for their previous name/gender to be disclosed on their DBS Certificate". They are advised not to enter their previous name(s) in Section 4 where asked have you used any other names tick no part of the DBS application form and then complete the rest of the form as they normally would. Just before or at the same time the application is submitted, the applicant must send, direct to the team, a document that confirms the previous name(s) which they used e.g. Change of Name Deed, Original Birth Certificate. A Gender Recognition Certificate is not required for this process. The applicant should include a short, covering letter that confirms their current name, full address with postcode and a contact telephone number. We have found that some applicants may not have sufficient documentary evidence to support a DBS application. If this is the case, the applicant should contact the team as soon as possible to discuss.

If any further information is required, the applicant (or nominated person) will be contacted by a member of this team.

How to contact the dedicated Customer Services team:

Address:

Sensitive Applications Team
Customer Services,
Disclosure and Barring Service
PO BOX 165,

Liverpool,
L69 3JD
Phone: 0151 676 1452 (Direct line)
Email: sensitive@db.s.gsi.gov.uk

There is an answer phone service available for this number where you can leave your name and contact number and a member of the sensitive applications team will call you back.

5.4 Informing colleagues

The individual and their Line Manager or the Headteacher should work out together how best to inform work colleagues about the trans person's plan to transition. Trans people are not obliged to inform their employer about their trans history as a condition of employment or promotion. So, if a person transitioned before joining the school, no information about this should be passed on to others unless this is absolutely necessary, and then only with the full consent of the person concerned.

With regards to telling students, again this should be discussed with the individual concerned. It may be appropriate to involve parent representatives when discussing this e.g. parent governors. This should only be done with the permission of the individual and data regarding this should be handled confidentially. Student welfare is an important consideration and there should be an opportunity to ask any questions and seek any information. This needs to be balanced in line with the needs of the individual staff member.

A case by case decision on the extent of the disclosure of this information should be agreed by the person concerned and the manager. The wishes of the individual are most important, although management and HR have the responsibility to see that the process of informing others is safe and respectful. In some circumstances the trans person may wish to disclose these matters personally to some or all of their contacts. If this is the case the employer will need to know when this is going to happen, and what kind of information will be given to work colleagues, so that support is available to the members of staff involved.

5.5 The Role of Occupational Health

A person transitioning or planning to transition should be offered the opportunity to be referred to Occupational Health for advice. The role of Occupational Health (OH) will be to advise the employer on fitness for work issues as well as provide appropriate advice on any medical issues which may impact on an individual's ability to carry out the full scope of the job. Generally speaking, trans people are not more at risk than their work colleagues. The employer should ensure that its health and safety precautions include ongoing Risk Assessments for trans employees, where the job is physically demanding. Examples of risks include that trans women may lose upper body strength when having hormone treatment. Before having chest surgery, some f-m trans men wear chest binders which restrict their movement and may cause back problems.

Following any surgery, advice may also be needed about any temporary adjustments to help those returning to work, who may not, at first, be able to undertake all aspects of their former role. Trans men may have chest reconstruction surgery before, or around the time of, role change.

Occupational Health cannot seek to replace the specialist medical advice, assessment and support required by individuals who are considering gender reassignment. However OH staff are able to offer confidential support and counselling for those who are affected emotionally at what can be a distressing period of their lives. Any individual referred to Occupational Health can expect the issues

to be dealt with in the strictest of confidence, as would be expected from any other practitioners providing care.

5.6 Time off for medical treatment

Time off for treatments associated with gender reassignment is specifically protected under the Equality Act 2010, so that absences cannot be used as evidence when, for instance, considering promotion or job references. The Manager should discuss as far as possible in advance the time away from work that an individual will need. This can only be a general guide initially as timescales may change over time, and be unpredictable. As much notice as possible should be given for lengthy periods of absence in order to ensure minimal service disruption.

Consultations and hospital appointments may require full days away from work in addition to any time required for surgical procedures. Flexibility should be allowed for individuals to undergo treatment and absences related to gender reassignment treatment e.g. surgery, hormone therapy etc. should be discounted for the purposes of the Health and Wellbeing Policy within reason.

When the individual is absent for treatment or surgery then normal sick pay arrangements or absence arrangements will apply. The normal policy for medical appointments will also apply. Flexibility in terms of taking holiday or rearranging working hours in order to attend medical appointments will be considered.

5.7 Dress and Appearance

Transgender and gender non-conforming employees have the right to comply with any formal or informal dress policy in a manner consistent with their gender identity or gender expression. Where staff are required to wear a uniform all staff should be able to choose the uniform which they feel is most appropriate for their gender identity where this does not conflict with relevant health and safety requirements.

The school appreciates that there may be the need for some flexibility to accommodate different gender identities and the process of transition from one gender role to another. For example, when starting to live full-time as a woman, flexibility should be allowed over hairstyle, jewellery and makeup. Where a uniform requires trousers to be worn by both men and women, a woman in the process of transition may prefer to wear a skirt so that others are clear about her gender status- if there are no health and safety issues this should be permitted. Health and safety requirements will be considered when looking at adjustments to uniforms where there is a need for this.

5.8 Use of single-sex facilities

Facilities such as toilets, showers and changing rooms should be accessed according to the full-time presentation of the employee in the new gender role. It is never appropriate to insist that a person who has transitioned, use only the toilets that are meant for disabled people, unless these are the only facilities available, or they are preferred by the trans person. If others do not wish to share the 'ladies' or 'gents' facilities with a trans person, then it is they, not the trans person, who must use alternative facilities. Sufficient cubicles, designed for maximum privacy by having partitions and doors that extend from floor to ceiling, should be provided wherever possible.

5.9 Other protected characteristics

There is no hierarchy among protected characteristics; one protected characteristic is not more important than another. For example, a person's religion or belief must, of course, be respected, but it must not be used to discriminate against another person because of that person's protected characteristic including gender identity.

5.10 Complaints

Any complaints should be handled under the school's Dignity at Work Procedure.

5.11 Media Interest

Strict confidentiality should be maintained and no information should be provided to the media. Any media queries should be addressed through [ADD e.g. the Communications Team at Northumberland County Council.]

5.12 References

When providing references to a prospective new employer, the reference should be in the name which will be used in the new job. A reference must not disclose a former name. It may sometimes be necessary for a trans person to disclose a previous identity in order for references from past employers to be obtained. In these cases strict confidentiality and respect for dignity should be applied and information kept secure. In line with Safer Recruitment Guidance, references should be sought prior to interview. In order to reduce the risk of unconscious bias, the individual should be able to contact an individual within the school who is not involved in the recruitment process to support with this.

5.13 Professional Registration

Where an employee is subject to professional registration they should be advised to contact their professional body to establish if there are any specific requirements in terms of name changes etc. Where the school has to keep evidence of professional status or qualifications, this should be discussed with the employee as to how to retain such evidence on file so as not to compromise or breach disclosure of protected information.

6. Breaches of the Trans Inclusion Policy

Dignity at Work and Harassment

While it is hoped and intended that most problems relating to employment can be resolved on an informal basis, the Dignity at Work Procedure exists so that caused of genuine concern can be dealt with equitably. Any employee who believes he/she has been discriminated against because of, during or following their transition should raise the matter under the Dignity at Work Procedure. By having clear and well-publicised dignity at work and harassment procedures in place, the school ensures that every opportunity is given to address any area or situation where discrimination is perceived to have arisen.

Disciplinary Procedure

The school takes a serious view of any and all discrimination and breaches of this Policy are deemed as misconduct. Any such actions will be investigated as possible disciplinary offences and dealt with in accordance with disciplinary procedures. All staff have a shared responsibility to ensure that the Trans Inclusion Policy is adhered to and to promote dignity and equality of opportunity and outcome at work.

7. Process for Monitoring and Audit

Monitoring/audit arrangements	Methodology	Reporting		
		Source	Committee	Frequency
Audit	Review of duties of individuals in line with policy	Policy Author	Policy group	Upon policy review
Policy / procedure effectiveness				
Review	Feedback from HR colleagues / monitoring of related disciplinarys	Operational Team	Policy sub-committee	Upon policy review

Wherever the monitoring has identified deficiencies, the following should be in place:

Action plan

8. References:

[Stonewall 'Creating a Transitioning at Work Policy'](#)

[GIRES 'Transitioning in the Workplace Policy'](#)

[Trans Equality in Schools and Colleges - NASUWT Guidance](#)

11. Associated documents

Code of Conduct
Dignity at Work Procedure
Disciplinary Policy

Appendix One - Definitions

Here is an explanation of some of the common terms that you may come across. These are listed in alphabetical order.

Ally

Any person who actively supports people in protected groups, for example LGBTQ (Lesbian, Gay, Bisexual, Transgender and Queer) individuals and causes, and speaks out in support of them. .

Cisgender/ Gender Normative

Refers to people whose sex assignment at birth corresponds to their gender identity and expression. Non-trans is also used by some people

FTM: female-to-male

Indicates a trans individual who was originally assigned the sex of female at birth, but has claimed a male identity through clothing, surgery, hormones, and/or attitude changes.

Gender

Gender refers to that which a society deems “masculine” or “feminine.” Gender is socially constructed and is not necessarily the same as an individual’s biological sex

Gender Dysphoria

Gender dysphoria is the clinical diagnosis for someone who doesn't feel comfortable with the gender they were assigned at birth. Many trans people reject the idea that gender dysphoria is a prerequisite for being trans.

Gender Expression

Refers to the ways in which people externally communicate their gender identity to others through behaviour, clothing, haircut, voice and other forms of presentation. Gender expression also works the other way as people assign gender to others based on their appearance, mannerisms, and other gendered characteristics. Gender expression should not be viewed as an indication of sexual orientation.

Gender identity

A person's internal sense of their own gender, whether male, female, or something else

Gender variant

Someone who does not conform to the gender roles and behaviours assigned to them at birth. This is usually used in relation to children or young people

Gender Role

Refers to the sets of activities, thoughts, emotions, and/or behaviours traditionally considered normal for men or women within a culture.

Gender Variant/ Gender Non Conforming

Displaying gender traits that are not normatively associated with their biological sex. "Feminine" behaviour or appearance in a male is gender variant as is "masculine" behaviour or appearance a female. Gender-variant behaviour is culturally specific.

Intersex

Intersex is a term used to describe a person who may have the biological attributes of both sexes or whose biological attributes do not fit with societal assumptions about what constitutes male or female. Intersex people can identify as male, female or non-binary. This term is not the same as the term "hermaphrodite," which is an antiquated and offensive term to intersex individuals and their allies.

MTF: male-to-female.

Indicates a Trans individual who was originally assigned the sex of male at birth, but has claimed a female identity through clothing, surgery, hormones, and/or attitude changes.

Non-binary: an umbrella term for a person who does not identify as male or female. A rejection of the male/female gender binary in favour of a more fluid, non-traditional identity. Can also be referred to as Genderqueer.

Queer

In the past a derogatory term for LGBT individuals. The term has now been reclaimed by LGBT young people in particular who don't identify with traditional categories around gender identity and sexual orientation but is still viewed to be derogatory by some. It is sometimes used as an umbrella term for many non-heteronormative identities.

Sex (Anatomical/ Biological)

Separate from gender, the physical structure of one's reproductive organs that is used to assign sex at birth. Given the potential variation in all of these, biological sex must be seen as a spectrum or range of possibilities rather than a binary set of two options. Sometimes the terms 'sex' and 'gender' are interchanged to mean 'male' or 'female'

Sexual orientation

Separate from gender identity, this term refers to how one identifies regarding the people to whom one is sexually or romantically attracted. Orientation is not dependent on physical experience, but rather on feelings and attractions. Sexual orientation a person's emotional, romantic and/or sexual attraction to another person

Transgender/Trans

Used both as an umbrella term and as an identity. Broadly, it refers to those who do not identify with or are uncomfortable with their assigned gender and gender roles. As an identity, the term refers to anyone who transgresses traditional sex and gender boxes. Trans describes a wide range of gender identities including people whose gender is not the same as, or does not sit comfortably with, the sex they were assigned at birth. Trans people may describe themselves using one or more of a wide variety of terms, including (but not limited to) transgender, cross dresser, non-binary, genderqueer

Transition

The process by which a Trans individual strives to have a physical presentation more closely aligned with their identity.

Transphobic abuse

Treating someone less favourably or discriminating against someone because they have changed gender or don't conform to gender stereotypes, any harassment or bullying, for example in the forms of derogatory jokes, graffiti, name-calling, intrusive questions, speculation about someone's gender identity, unacceptable or unwanted behaviour is a serious disciplinary offence. See our Bullying and Harassment Policy for more information.