

Trans Equality Policy

September 2021

Created: September 2021
To be revised by: September 2024

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1.0 Policy Statement

- 1.1 The Council is committed to promoting a diverse workforce to reflect the local community it serves. The Council is committed to creating a safe and inclusive environment for all employees, irrespective of their gender identity and gender expression and aims to support all trans people, including non-binary and genderfluid people who wish to take or have taken steps to change their gender identity they were assigned to at birth.
- 1.2 The policy outlines the Council's commitment to ensuring that trans, non-binary and gender fluid employees are treated with dignity and respect and can perform their jobs free from harassment and discrimination.
- 1.3 This policy incorporates the legislative responsibilities under the Equality Act 2010, the Human Rights Act 1998, GDPR 2018 and the Gender Recognition Act 2004.
- 1.4 This policy incorporates the legislative responsibilities under the Gender Recognition Act 2004 which provides the opportunity for a person who has transitioned to acquire a new 'birth' certificate for their new gender status (for those whose birth was registered in the UK).
- 1.5 The Council recognises that to 'out' someone, i.e. to reveal a person's trans status without their consent and without their permission is a form of harassment and, in several contexts, may amount to a criminal offence. It is illegal to out someone's trans status/trans history.
- 1.6 The Council also recognises that protection under the Equality Act 2010 is extended to trans individuals from the moment they indicate their intention to transition. We will provide support in line with this, including to those employees who identify as non-binary, non-gender or gender-fluid.
- 1.7 Breaches of this policy will be dealt with under the Council's Disciplinary Policy, Grievance Policy and/or Dignity and Work policy. Allegations of any form of transphobia including bullying, harassment and discrimination will be considered gross misconduct and may result in a dismissal.
- 1.8 Managers and employees should also familiarise themselves with the Trans Equality Guidance.

2.0 Scope

- 2.1 This policy and procedure applies to all employees of the Council including the Senior Managers and Managing Director.
- 2.2 It excludes NJC employees and Teachers employed by Governing Bodies who are covered by Schools HR Policies. Policies adopted by the City Council

may, following discussion with relevant trades unions, also be recommended as good practice models for adoption by maintained school governing bodies.

3.0 Principles

- 3.1 The policy aims to:
- 3.2 Inform good practice in relation to managing trans and non-binary equality issues in employment.
- 3.3 Support employees who are proposing to undergo, are undergoing or have undergone a process (or part of a process) for the purpose of transitioning. For information on transitioning please see Transitioning at work guidance.
- 3.4 Ensure that employees feel safe about being open about their gender identity if they wish and feel comfortable to express their gender in affirming ways.
- 3.5 Ensure confidentiality in relation to an applicant's or an employee's trans status.

4.0 Summary of Legislation

- 4.1 Gender reassignment is a protected characteristic under the Equality Act 2010. It provides people with legal protection from direct discrimination, indirect discrimination, harassment, discrimination based on perception (e.g. a person is perceived to be trans, victimisation and discrimination based on association (e.g. partner, parent, sibling or friend of a trans person)).
- 4.2 The protected characteristic of gender reassignment applies to a person who is proposing to undergo, is undergoing or has undergone a process to change their gender role and presentation (also referred to as transition). A person is legally covered from the point of 'proposal' – the person can stop or pause the process and not lose legal protection. Transitioning is rarely a linear journey or a single point-in-time event.
- 4.3 This also means that to qualify for protection from direct and indirect discrimination on grounds of gender reassignment a trans person does not have to demonstrate that they are under medical supervision.
- 4.4 'Each person's transition will involve different things. 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 also might involve things such as telling friends and family, dressing differently and changing official documents.
- 4.5 Previously the Equality Act did not cover non-binary and genderfluid identities but the Council welcome's the legislative changes and are committed to ensure all non-binary and genderfluid employees are protected.

5.0 Promotion of trans equality

- 5.1 As well as ensuring that trans employees are fully supported, the Council will demonstrate commitment to trans equality in the following ways:
- 5.2 To provide a list of terminology to encourage an understanding throughout the Council of commonly used phrases, Appendix 1 Transitioning at work definitions and terminology.
- 5.3 Ensuring that all training courses that are delivered are fully inclusive of trans employee's this includes both face-to-face training and e-learning.
- 5.4 Ensuring that all forms and surveys are inclusive of trans employees, including non-binary and gender fluid people for both employees and clients.
- 5.5 Including trans equality as a core part of the organisation's equality agenda and objectives.
- 5.6 Investigating fully all complaints of harassment, victimisation or discrimination on the grounds of gender identity, gender history, trans status or gender expression.
- 5.7 Ensuring our recruitment processes are fair and inclusive
- 5.8 Marking important dates for the trans community, such as:
 - Trans Day of Visibility; 31 March
 - Non Binary Peoples day 14th July
 - Pronouns day 20th October
 - Transgender Day of Remembrance 20th November

6 .0 Appointments and time off work

Employees undergoing medical and non-medical procedures related to gender reassignment may require time off from work. Please see the Trans Equality Guidance about how appointments and time off for work are dealt with.

7.0 Facilities

- 7.1 All employees have the legal right under the Equality Act 2010 to access facilities such as changing rooms or toilets according to the gender which they identify. This could mean changing facilities at the point of living in the chosen affirmed gender. Line Manager's should be supportive of employees to

empower them in whatever decision they make.

- 7.2 The employee should not be required to use a disabled toilet as an alternative to single-sex facilities but should be allowed to do so if this is their preference.

8.0 Recruitment

- 8.1 The Council is committed to the employment, development and promotion of all, regardless of sex, marital status, colour, race, nationality, ethnic/racial/national origins, religious beliefs, disability, age, sexual orientation or gender expression. As such the Council is committed to ensuring potential employees are not discriminated against in the recruitment process. The application process is designed to be anonymous and panel members do not receive any diversity information regarding candidates. All interview panel members must attend unconscious bias training and the panel must be diverse.

- 8.2 A job applicant's gender identity is irrelevant to the recruitment process, except in exceptional circumstances where a genuine occupational requirement applies to a job. This requirement must be made clear in the recruitment material.

8.3 Interviewing and Selection

- 8.4 There is no obligation for a trans person to disclose their trans history or gender identity as a condition of employment. If they choose to disclose, this is not in itself a reason for not offering employment. Moreover, no-disclosure, or subsequent disclosure, is not grounds for dismissal.

8.5 References

- 8.6 When a manager is asked for a reference for a trans employee, they must provide it, without disclosing their trans status.

- 8.7 If documents are requested which include the individuals name prior to transition such as copies of essential qualifications, Human Resources will restrict access so as not to compromise or breach disclosure of protected information.

- 8.8 When the Council requests a reference, we will make the request using the prospective employee's affirmed name and gender we will not mention previous names or gender identity, unless specifically asked to do so (in writing) by the trans person.

8.9 Criminal record checks/disclosure and barring

- 8.10 Agencies responsible for checking criminal records in the UK all have specific processes in place for trans people, including those with a full GRC. The

Disclosure and Barring Service carries out checks in England and Wales and has a sensitive applications team: sensitive@db.s.gsi.gov.uk

8.11 Qualification certificates

8.12 The Council recognises that it can be difficult and expensive for a trans person to change their qualification certificates. If these are in a former name then where possible a record will be made that the certification has been seen, but a copy will not be taken. If it is necessary to store a copy, they will be stored securely and restricted.

8.13 Professional registration

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

8.15 Pensions and national insurance

8.16 Where pensions, national insurance contributions or other benefits are dependent on legal sex, trans employee's will be advised of the different implications of whether they do or do not have a Gender Recognition Certificate please contact the HRMC direct or for further information please contact the HUB using the "our people" portal [here](#).

9.0 Records

9.1 All documentation revealing an employee's previous gender status must be specially protected.

9.2 The Council will ensure that all documents and employment details reflect the affirmed gender of the employee. This will prevent breach of confidentiality.

9.3 Access to records

Access to this information must be restricted to only those who require this information to carry out the duties of their role. For example, access to records associated with the individual's transitioning status (such as records of absence for medical treatment) should be restricted to relevant persons such as the employee's manager and Human Resources.

10.0 Roles and Responsibilities

10.1 Employees are required to:

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

- Employees are responsible for creating an inclusive and welcoming workplace and report any transphobic discrimination to their line manager, HR or via safe space.

10.2 **Managers are required to:**

- Ensure that colleagues are informed about the employee's transition in a manner that best suits the employee.
- Always maintain confidentiality.
- Thoroughly investigate any instances of harassment, victimisation or discrimination.
- Support the employee in any way that is necessary and appropriate.
- To be a role model and promote a commitment to Diversity and Inclusion.
- Make arrangements to change names, titles and pronouns on email and other systems.
- Make arrangements to issue updated security passes and ID badges as required.

10.3 **Human Resources Advice are required to:**

- Provide support and guidance to employees and managers relating to this policy and guide.
- Ensure the communication, maintenance, review and updating of this policy.
- Monitor and review the HR effectiveness of this policy.
- Maintain confidentiality, including securing paper documents and files.

10.4 **The Deputy Director of People and Change is required to:**

- In consultation with the recognised Trade Unions, the Deputy Director of People and Change will exercise delegated authority for and be responsible for the ongoing review and updating of this policy to ensure compliance with changes in statutory requirements and operational delivery, including responsibility for identifying the appropriate process for the regular evaluation of the effectiveness of this policy. Any fundamental changes to this policy will be approved using the Councils approval procedures.

10.5 **Trade unions are required to:**

- Support the employee if they experience harassment, victimisation or discrimination
- Work in consultation with HR Advice on any review and revisions of this policy.

11.0 **Monitoring and review**

- 11.1 This policy will be reviewed every 3 years or earlier if there are significant changes required in the light of best practice and any changes to legislation and Government guidance.

12.0 Links to other policies and procedures

This policy cannot be seen in isolation and must be read in conjunction with the following policies:

- [GDPR Guide](#)
- [Disciplinary Policy](#)
- [Dignity at work policy statement](#)
- [Employees Code of Conduct](#)
- [Equality in Employment Statement](#)
- [Grievance Policy](#)
- [Leave Policy](#)
- [Management of Attendance policy, procedure and guidance](#)
- Transitioning at work Guidance

13.0 Equality and Diversity

- 13.1 The Council is committed to equality and fairness for all employees and has a zero-tolerance approach to discrimination bullying and Harrasment on the basis of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 13.2 In developing this policy we have undertaken an Equality Analysis the results of which indicate that it is lawful to proceed in the way described by this policy. The Council is committed to promoting equality and recognising the diversity of our communities and will work to ensure all parts of our community are treated fairly.

Appendix 1 - Transitioning at work definitions and terminology

Terminology is not fixed; however, the below terms provide an understanding of commonly used phrases, based on guidance from Stonewall. You may find it useful to read this first if you are not acquainted with the language relating to trans issues.

Cisgender or cis- Someone whose gender identity is the same as the sex they were assigned at birth. Non-trans is also used by some people.

Gender- Often expressed in terms of masculinity and femininity, gender is largely culturally determined and is assumed from the sex assigned at birth.

Gender Dysphoria- Used to describe when a person experiences discomfort or distress because there is a mismatch between their sex assigned at birth and their gender identity.

This is also the clinical diagnosis for someone who doesn't feel comfortable with the sex they were assigned at birth.

Gender expression- How a person chooses to outwardly express their gender, within the context of societal expectations of gender. A person who does not conform to societal expectations of gender may not, however, identify as trans.

Gender Fluid- Denoting or relating to a person who does not identify themselves as having a fixed gender.

Gender Identity- A person's innate sense of their own gender, whether male, female or something else (see non-binary below), which may or may not correspond to the sex assigned at birth.

Gender Recognition Certificate (GRC)- This enables trans people to be legally recognised in their affirmed gender and to be issued with a new birth certificate. Not all trans people will apply for a GRC and you currently have to be over 18 to apply. You do not need a GRC to change your gender markers at work or to legally change your gender on other documents such as your passport.

Gender Reassignment- Another way of describing a person's transition. To undergo gender reassignment usually means to undergo some sort of medical intervention, but it can also mean changing names, pronouns, dressing differently and living in their self-identified gender.

Gender reassignment is a characteristic that is protected by the Equality Act 2010, and it is further interpreted in the Equality Act 2010 approved code of practice.

Non-Binary - An umbrella term for people whose gender identity doesn't sit comfortably with 'man' or 'woman'. Non-binary identities are varied and can include people who identify with some aspects of binary identities, while others reject them entirely.

Person with a Trans history- Someone who identifies as male or female or a man

or woman but was assigned the opposite sex at birth. This is increasingly used by people to acknowledge a trans past.

Trans - An umbrella term to describe 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, transsexual, gender-queer (GQ), gender-fluid, non-binary, gender-variant, crossdresser, genderless, agender, nongender, third gender, bi-gender, trans man, trans woman, trans masculine, trans feminine and neutrois.

Transgender Man-A term used to describe someone who is assigned female at birth but identifies and lives as a man. This may be shortened to trans man, or FTM, an abbreviation for female-to-male.

Transgender Woman-A term used to describe someone who is assigned male at birth but identifies and lives as a woman. This may be shortened to trans woman, or MTF, an abbreviation for male-to-female.

Transitioning-The steps a trans person may take to live in the gender with which they identify. Each person's transition will involve different things. 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 also might involve things such as telling friends and family, dressing differently and changing official documents

Transphobia-The fear or dislike of someone based on the fact they are trans, including denying their gender identity or refusing to accept it. Transphobia may be targeted at people who are, or who are perceived to be, trans.

Questioning-The process of exploring your own sexual orientation and/or gender identity.

Sex-Assigned to a person on the basis of primary sex characteristics (genitalia) and reproductive functions. Sometimes the terms 'sex' and 'gender' are interchanged to mean 'male' or 'female'

Appendix 2 - Legislation

Equality Act 2010

Section 16 of the Act protects people undergoing gender reassignment from discrimination due to absence from work. It confirms that absence from work because of gender reassignment should be treated no less favourably than absence because of sickness, injury or any other reason. There have been recent changes to the term gender re-assignment which now includes non-binary and gender fluid identities.

This allows employers to treat gender reassignment absence differently from, but no less favourably than, sickness absence and can remove substantial disadvantage that would otherwise be experienced by trans people.

Victimisation occurs when an employee is treated less favourably because they have made a complaint under the Act. This does not require a comparator.

The Public Sector Equality Duty (the General Duty) came into force on 05 April 2011. The General Duty requires public bodies to consider the needs of all individuals in their day to day work, in developing policy, in delivering services, and in relation to their own employees.

The General Duty requires the Council to have 'due regard' to the need to:

Eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Act.

Advance equality of opportunity between persons who share a relevant protected characteristic and those who don't share it (with the exception of marriage and civil partnership).

Foster good relations between persons who share a relevant protected characteristic and those who don't share it.

GDPR 2018

Under this legislation, data relating to an individual's transition (which includes a change of gender status and name) is classed as 'sensitive information', and therefore attracts a higher degree of protection than usual, especially when a Gender Recognition Certificate is held (see Gender Recognition Act below).

Human Rights Act 1998

Article 8 Right to Privacy of this Act includes the right for information regarding change of gender to remain private and for trans people and those associated with them to be treated with respect and dignity. Article 3 is an absolute right not to be subjected to degrading treatment

Gender Recognition Act 2004

The UK Gender Recognition Act (GRA) enables people aged over eighteen to gain full legal recognition for the gender in which they live. Applications are considered by the Gender Recognition Panel. Once a person receives a Gender Recognition Certificate (GRC), they are legally of that gender for every purpose and have all the rights and responsibilities associated with that gender.

Employment rights do not depend on whether a person has a Gender Recognition Certificate. Employers should not ask for a person's GRC and it should never be a pre-condition for transitioning at work. To make an application for a GRC, a person needs to show they have been living – and working - in that gender for at least two years. So being asked to show a GRC as a condition of changing employment details is like being asked to show a full driving licence before you can apply for a provisional one.

The Gender Recognition Act gives anyone applying for or holding a Gender Recognition Certificate particular privacy rights. It is a criminal offence to pass on information acquired 'in the course of official duties' about someone's gender recognition, without the consent of the individual affected. 'Official duties' include employment, trade union representation or supply of business or professional services.

Genuine Occupational Requirements

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 2010 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 redeployed into a suitable position.