

# Transgender Equality Policy For West Sussex Schools

## 1 Aim

This policy sets out how schools in West Sussex will support its transgender workforce and prevent discrimination against transgender people in the workplace.

## 2 Purpose Of Policy

This policy outlines West Sussex County Council's commitment to ensuring that transgender employees in schools are treated with dignity and respect and are not disadvantaged in the workplace.

The policy sets out the steps we will take to welcome and support transgender employees and prevent discrimination.

The document comprises:

- Pages 1-10: the **Model Transgender Equality Policy** for West Sussex Schools (including a list of contact details and sources of help).
- Pages 11-13: **Appendix A – A Glossary**.
- Pages 14-18: **Appendix B – Additional Information About The Law**.
- Pages 19-24: **Appendix C – Model Transgender Equality Action Plan**.
- Pages 25-32: **Appendix D – Further Guidance** (answers to general questions, questions employees may ask and questions headteachers/managers may ask).

## 3 Scope

This policy applies to all employees based in schools, contractors, temporary workers, governors, volunteers, and job applicants. It applies to all stages of the employment relationship.

Failure to take account of this policy may result in disciplinary action being taken against an employee.

## 4 Principles

We believe that diversity and inclusion bring benefits to our schools and that people work better when they can be themselves and feel that they belong.

We are committed to welcoming and supporting transgender employees and removing barriers to their recruitment, promotion, and retention.

Providing a working environment that is free from discrimination, harassment or victimisation because of gender identity is an important step in ensuring that transgender employees are respected and valued.

We recognise that transgender job applicants and employees are not required to tell us their gender status or gender history.

The gender in which an individual chooses to present will always be acknowledged and respected. This extends to individuals who identify as non-

binary, i.e. they do not regard their gender identity as exclusively male or female.

## **5 Definitions**

Definitions and terminology regarding transgender people are evolving. The Glossary in **Appendix A** at the end of this policy provides guidance on some of the most commonly used terms.

Individuals will self-identify and how they choose to describe themselves should be respected by headteachers / managers and colleagues in schools. Rather than assume, it is best to ask someone how they wish to be addressed.

Using inappropriate language and terminology can cause offence and distress and undermines our efforts to create an inclusive workplace for transgender people.

## **6 Gender Identity and Sexual Orientation**

Gender identity and sexual orientation are not interchangeable terms. Gender identity is about the internal sense of one's gender. Sexual orientation is about a person's preference for sexual partners and encompasses attraction towards persons of the same sex, persons of the opposite sex, and persons of both sexes.

Transgender people can be bisexual, gay, heterosexual, lesbian, or asexual, and employers should not assume that a transgender person has a particular sexual orientation.

## **7 The Law**

**Note:** this section covers key points from two key pieces of legislation, The Equality Act 2010 and The Gender Recognition Act 2004. Additional information about the law can be found in **Appendix B**.

### **The Equality Act 2010**

Gender reassignment is one of the nine protected characteristics covered by the Equality Act 2010.

The Act protects a person from discrimination, harassment, and victimisation if they are "proposing to undergo, are undergoing, or have undergone a process (or part of a process) of gender reassignment". There is no requirement for the person to be under medical supervision as gender reassignment is considered to be a personal rather than a medical process.

Under the Act, a person who takes time off work for gender reassignment must not be treated less favourably in respect of employment decisions, for example by being denied access to training or promotion opportunities.

The Act also protects anyone who is perceived to have the characteristic of gender reassignment or is associated with someone who has the protected characteristic of gender reassignment, such as an individual's partner or a friend.

An employee who treats a colleague less favourably because of gender reassignment, for example by refusing to work with them, may be held personally liable for discrimination.

### **The Gender Recognition Act 2004**

The Gender Recognition Act 2004 allows an individual to apply for a Gender Recognition Certificate (GRC), which will give them legal recognition in their acquired gender and enables them to obtain a new birth certificate.

The Act safeguards the privacy of an individual with a GRC by defining information relating to the gender recognition process as "protected information" and, except "in certain specific circumstances" (for example, for the purpose of preventing or investigating crime), it is a criminal offence to disclose such information without the individual's consent.

An application for a GRC will be made to the Gender Recognition Panel.

Individuals are required to provide a medical diagnosis of gender dysphoria and evidence that they have lived in their acquired gender for two or more years and intend to do so permanently.

Transgender people are not required to apply for a GRC and many choose not to for various reasons. An individual should never be asked if they have a GRC and to do so could be considered harassment.

## **8 How We Will Support Transgender People In West Sussex Schools**

The approaches set out below show how we will promote a workplace in our schools that is inclusive of transgender people.

### **Recruitment**

We wish to attract applicants from as wide a talent pool as possible and the recruitment process is designed to be inclusive of applicants who are transitioning or have transitioned. Except in exceptional defined circumstances, a job applicant's gender identity is irrelevant. In an exceptional circumstance where the nature of a specific role might lawfully prevent someone who is transitioning from applying, legal advice must always be sought in advance of advertising.

Job advertisements should make clear that opportunities are open to all suitably qualified applicants. If this statement makes explicit reference to not discriminating on particular grounds, these should include gender reassignment. Where an application form is used, this should not include a question about previous names as this may deter an individual who has transitioned from applying.

Headteachers / managers should not ask questions about an applicant's gender identity. If an individual chooses to mention this during the interview, they should be informed that we support transgender employees and assured that the disclosure will have no bearing on the outcome of the interview, will not be revealed outside the interview room or noted on the interview record.

## **Safer Recruitment**

Being transgender should never affect the recruitment or selection process and this is unlawful.

The requirement to provide proof of identity to confirm the right to work in the UK can be particularly sensitive for a transgender applicant whose identification documentation may be in their previous names. We will always ensure that an applicant is made aware of the full range of permissible identification documents and that the process of checking is handled sensitively and with respect for the privacy of the individual.

Where an individual's documentation reveals their previous name and thereby their gender history, this information will be kept confidential and stored securely with the permission of the individual and in accordance with their school's Data Protection Policy. The same approach will apply where an applicant is required to present qualification certificates before a job offer is confirmed and the certificates are in the applicant's previous name. The school will always ensure that an applicant is made aware of the full range of permissible identification documents and that the process of checking is handled sensitively and with respect for privacy of the individual.

## **Disclosure and Barring Service (DBS)**

Appendix D – specifically the section in D3 titled 'Are there implications for recruitment and selection?' provides further information on Disclosure and Barring Service (DBS) disclosure. Section 9 of this policy document titled 'Contact Details and Sources Of Help' lists some useful resources.

## **Employment**

An employee who is transitioning may wish to be redeployed on a temporary or permanent basis. This may be because: the individual is in a public-facing role and wishes to avoid having to answer questions from the public about their gender identity; or the role involves particular tasks that will be difficult to undertake if undergoing a particular type of treatment (for example, hormone therapy that causes fatigue). Requests to be redeployed will be discussed with the employee and, where possible, we will seek to accommodate the employee's wishes. This will include agreement on whether or not the redeployment is temporary or permanent.

Headteachers / managers should not put pressure on an individual to change jobs or make assumptions about their capability or wishes.

An employee's gender identity will not have a bearing on any employment decisions or access to benefits, except where permitted by law. For example, an individual who has transitioned but does not have a GRC may be required to disclose their gender history for insurance and pension purposes. In these circumstances such information will be handled in line with each school's Data Protection Policy which is available on West Sussex Services for Schools (WSSfS).

Where pension and insurance providers request disclosure of an individual's gender identity, we will ensure that this requirement has been checked with the underwriter and the requirement is made clear in any scheme information

provided to employees. In such circumstances, the employee's written consent will be obtained before disclosing their gender history and status.

### **Names and Pronouns**

We will take all necessary steps to ensure that an individual's change of name is respected.

A GRC is not required to enable a transgender person to change their name and we will never ask an individual if they have a GRC to verify a name change.

We will always respect an individual's chosen pronoun. Consistently addressing a transgender employee by their previous name and/or an inappropriate pronoun may be regarded as harassment and will be dealt with accordingly.

### **Changing Employee Records**

Where an employee is absent while completing their transition, any records that hold personal details should be changed by the time the individual presents at work with their new identity. Records will include all of the systems that may contain names, titles and other personal identifiers such as photographs on our website and intranet. We will work with the employee to ensure that nothing is omitted.

### **Confidentiality**

All records that include details of an employee's gender history will be destroyed in a secure manner unless there is a specific reason for retaining them (in which case the employee will be made aware of this). Where other people in the organisation need to be aware of the employee's transition to make a change to a particular record, we will obtain the employee's consent, and restrict the information to those who need to know.

Where there is a need to retain documentation that shows someone's gender history, this information will be stored confidentially in line with the requirements of data protection legislation. The information will be held electronically in a secure environment (for example, password protected) that can be accessed only with the consent of the individual concerned. Only named individuals will be allowed to access this information and those individuals will be made aware that breaches of confidentiality could be unlawful and result in disciplinary action.

Care will be taken to ensure that any search of the organisation's records by others will not inadvertently reveal an employee's gender history.

It is an individual's decision whether or not to reveal their gender status and we will respect their right to privacy. The right to privacy will apply regardless of whether or not the individual has a GRC.

Where an employee discloses information about their gender history or status (verbally or in writing), this will be treated as confidential. This includes any information provided to headteachers / managers or HR Professional Support (the West Sussex HR service that supports schools). Such information will not be shared with others unless there is a specific reason and then not without the written consent of the individual concerned. Disclosure of the gender history of

someone with a GRC without their specific permission would normally be a criminal offence.

Information relating to an employee's gender status or history will not be disclosed to a third party without the individual's consent, for example when responding to a reference request.

### **Communication**

Where an employee is transitioning, we will work with the employee to agree what information needs to be conveyed to colleagues, who should do this and when this should happen. While the whole workforce may not need to know about the employee's transition, people who work closely with the individual will normally need to know to ensure that a good working relationship is maintained.

The employee may wish to tell colleagues about their transition or may prefer for this to be done by someone else on their behalf. We will encourage the individual to do what is best for them and, if the employee is not ready to tell anyone at the early stages, we will respect the employee's wishes. The employee is entitled to privacy and we will seek to protect them from intrusive enquiries.

Where an employee has a public or client-facing role, we will discuss with the individual what third parties need to know and how this should be handled. We will be mindful of possible media interest and establish a protocol for handling media interest to ensure that:

- A transgender employee is not left to deal with this; and
- Their colleagues understand the importance of not compromising the individual's right to privacy.

### **Bullying and Harassment**

We adopt a zero-tolerance approach to harassment, bullying or victimisation and such behaviour may result in action being taken under schools' disciplinary procedures.

Examples of harassment against transgender people include:

- Verbal abuse such as name-calling, threats, derogatory remarks, or belittling comments about transgender people.
- Asking an individual if they have a GRC.
- Jokes and banter about someone's gender identity or transgender people generally.
- Refusing to use the pronoun appropriate to someone's acquired gender (for example, calling a trans woman "he") or calling the person by the name they had before they transitioned.
- Threatening behaviour or physical abuse.
- Intrusive questioning about someone's gender identity or transition.
- Excluding a transgender colleague from conversations or from social events.
- Refusing to work with someone because they have transitioned.
- Displaying or circulating transphobic images and literature.

Any complaints of bullying and harassment are taken seriously and will be dealt with promptly.

### **Working Overseas**

Where there is a possibility of working overseas (e.g. school trips), we will be alert to any issues that may arise in local jurisdictions where the law does not protect against discrimination because of gender identity. We will conduct a risk assessment and discuss the situation with the employee to agree an outcome.

### **Single-Sex Toilets and Facilities**

We will support a transgender employee's right to use the toilets and facilities appropriate to their gender from the point at which the individual declares that they are living their life fully in that gender. In some cases, the individual may wish to use a single-occupancy toilet during their transition, but they must not be pressurised to do so and this should not be seen as a long-term solution. A transgender person should not be expected to use an accessible toilet unless they prefer to do so.

We will agree with the employee when they wish to start using the facilities appropriate to their acquired gender and how this should be communicated to colleagues. Any concerns raised by others will be dealt with promptly and sensitively and harassment of the individual will not be tolerated.

### **Dress Codes**

We will agree with the employee what flexibility in our dress code may be permitted to accommodate the process of transition or where a gender-specific mode of dress would be uncomfortable for the individual.

### **Action Plan To Support An Employee Who Is Transitioning**

We will be supportive of an employee who has made the decision to transition.

We acknowledge that the transition process and the time it takes will be unique to each individual and that it is not always a linear process.

Transitioning is a major decision and the individual may have taken years to come to this point. They may fear rejection or ridicule by their work colleagues. It is therefore vital that we support the individual so that they can continue to work without fear of discrimination and harassment and that colleagues are helped to understand the process.

Once we have been made aware by an employee that they will be starting, or have started, the process of transitioning, an appropriate point of contact will be agreed with the employee. That person will work with the employee to develop a confidential Action Plan to manage the individual's transition at work.

The plan will consider what steps to take before, during and after the employee's transition. No action will be taken without the employee's consent.

It is important to develop a plan that is bespoke to the individual employee. Some of the key issues to address are likely to include:

- When and how an individual will present at work in their new gender status.
- Handling a request by the employee to change their job temporarily during the transition process or to move to a new role permanently.
- The point at which colleagues, especially any direct reports, will be informed and how this will be done.
- If and how third parties, such as clients, should be informed.
- How absence from work for reasons associated with transitioning (for example, for medical appointments and/or medical treatment) will be handled.
- Arrangements for changing the individual's name on their personnel records, email, security badges and so on.
- Confidentiality.
- Dress codes and/or uniforms.

Transitioning is a process that takes time, and, to help both parties, regular review meetings will be arranged to manage the process. This will ensure that the right support is in place and enable the plan to be amended as things change. Effective support for someone who is transitioning requires dialogue, agreed action and respect.

See **Appendix C** for a model transgender equality action plan which headteachers / managers can use with individual employees. Appendix D also has some information on this. Other plans and checklists are available and can be found by searching online.

## 9 Contact Details and Sources Of Help

**Brighton & Hove LGBT Switchboard** - a charity for LGBTQ people looking for community, support or information.

Helpline: 01273 359042 or 01273 204050

Email: [info@switchboard.org.uk](mailto:info@switchboard.org.uk)

Chat: available from website

Website: [www.switchboard.co.uk](http://www.switchboard.co.uk)

### **Disclosure and Barring Service (DBS)**

Phone: 0151 676 1452

Transgender applications information:

<https://www.gov.uk/guidance/transgender-applications>

Website: <https://www.gov.uk/government/organisations/disclosure-and-barring-service>

Email: [sensitive@dbs.gsi.gov.uk](mailto:sensitive@dbs.gsi.gov.uk)

### **Employee Assistance Programme (EAP)** provided by Health Assured:

Telephone: support is available 24 hours a day, 365 days a year via the free phone number **0800 030 5182**. Callers will need to confirm their organisation as West Sussex County Council and the name of the School that they work at.

Website: the [EAP website](#) unlocks a wealth of information, self-help guides and webinars on a range of issues. Username: **Wellbeing** Password: **Support**

## **HM Revenue & Customs**



Phone 0300 200 3300 or  
Phone 0300 2003319 (Textphone for employees who are deaf, hearing or speech impaired)

### **HR Customer Services**

Telephone: 01243 6(42148)

Email: [hr.customer.services@westsussex.gov.uk](mailto:hr.customer.services@westsussex.gov.uk)

### **Trade Unions**

A list of Trade Union representatives for ASCL, NAHT, NASUWT, NEU, UNISON and VOICE known collectively as 'The County Secretaries' is available on West Sussex Services for Schools.

The trade unions have a number of resources and groups which can be accessed by schools and employees. A selection is listed here for information:

- ASCL [LGBT Leaders' Network](#).
- NAHT [LGBT+ Network](#).
- NASUWT [Equality For Trans Teachers](#) document.
- NEU [Trans Equality Toolkit](#) for education staff transitioning in school/college.
- The TUC's [Trans Awareness Week](#) webpage.
- UNISON [transgender worker's rights](#) fact sheet.

### **West Sussex LGBTQ Support**

Website: <https://www.westsussex.gov.uk/education-children-and-families/your-space/support/lgbtq-support/>

### **Zhoosh Brighton**

Email: [info@zhooshbrighton.co.uk](mailto:info@zhooshbrighton.co.uk)

Website: [www.zhooshbrighton.co.uk](http://www.zhooshbrighton.co.uk)

### **Useful Sources Of Information**

**Allsorts Youth Project** - Allsorts Youth Project listens to, supports & connects children & young people under 26 who are lesbian, gay, bisexual, trans or exploring their sexual orientation and/or gender identity (LGBT+).

Website: <https://www.allsortsyouth.org.uk/>

**Equality and Human Rights Commission** - promotes and upholds equality and human rights ideals and laws across England, Scotland and Wales.

Website: <https://www.equalityhumanrights.com/en>

**Government Equalities Office** - leads work on policy relating to women, sexual orientation, and transgender equality.

Website: <https://www.gov.uk/government/organisations/government-equalities-office>

**Mind** - provide advice and support to empower anyone experiencing a mental health problem. Mind campaigns to improve services, raise awareness and promote understanding.

Website: <https://www.mind.org.uk/>

**Stonewall** - a lesbian, gay, bisexual, and transgender rights charity.

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

**Gendered Intelligence** - a registered charity that exists to increase understandings of gender diversity and improve trans people's quality of life.  
Website: <http://genderedintelligence.co.uk/>

**GIRES** - Gender Identity Research and Education Society. One aspect of the work of GIRES is to provide information and support to families that have an adult member whose gender identity is not aligned with the sex that was registered on their birth certificate. This support takes the form of information and signposting to local Support Groups.  
Website: [www.gires.org.uk](http://www.gires.org.uk)

**Press for Change** - lobbying and legal support organisation.  
Website: [www.pfc.org.uk](http://www.pfc.org.uk)

**The Gender Trust** - charity helping Trans people and all those affected by gender identity issues.  
Website: [www.gendertrust.org.uk](http://www.gendertrust.org.uk)

**Mermaids** - Support for young Trans people and their families.  
Website: [www.mermaidsuk.org.uk](http://www.mermaidsuk.org.uk)

<b>Date</b>	<b>Description</b>	<b>Author</b>
05/05/2021	First Draft Model HR Policy created	KMG WSCC SHRS
05/08/2021	Second Draft Model HR Policy created after stakeholders' review and feedback	KMG WSCC SHRS
21/01/2022	Document finalised	KMG WSCC SHRS
02/03/2022	Document published on West Sussex Services for Schools	KMG WSCC SHRS

END OF POLICY DOCUMENT  
APPENDICES FOLLOW

## Appendix A - Glossary

**Acquired gender:** Used in the Gender Recognition Act 2004 to describe a person's gender after transitioning. As this is a legal term, many people now prefer to use the term "affirmed" gender.

**Assigned gender:** The gender assigned to someone at birth, based on their physical characteristics.

**Cisgender (or Cis):** Describes someone whose gender identity matches the sex that they were assigned at birth.

**Cross dresser:** Someone who chooses to wear clothes not conventionally associated with their assigned gender. "Cross dresser" is now used in preference to the term "transvestite", which is considered to be outdated and can cause offence. Cross dressers are generally comfortable with their assigned gender and do not intend to transition.

**Gender:** The socially constructed roles, behaviours, activities, and attributes that a given society considers appropriate for men and women.

**Gender binary:** Gender binary is the classification of gender into two distinct, opposite forms of masculine and feminine, whether by social system or cultural belief. Most cultures use a gender binary, having two genders (boys/men and girls/women). See also non-binary.

**Gender dysphoria:** A recognised medical condition where the individual experiences severe discomfort and anxiety because their gender identity does not align with their biological sex.

**Gender expression:** How someone manifests their gender identity in society, for example through their appearance and behaviour.

**Gender-fluid:** People whose gender changes over time are known as gender-fluid. A gender-fluid person might identify as a woman one day and a man the next. They might also identify as nonbinary. With a change of gender identity, a gender-fluid person might or might not change their gender expression (e.g. how they dress and present themselves) and their pronouns.

**Gender identity:** A person's internal perception of their gender, their sense of self. For transgender people, their gender identity does not match the gender they were assigned at birth.

**Gender reassignment (or transitioning):** The process where an individual changes their expressed gender to live fully in the gender with which they identify. For example, a person who was assigned female at birth decides to take steps to live the rest of their life as a man. Gender reassignment does not require medical treatment and is a protected characteristic under the Equality Act 2010.

**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. Guidance can be found on the Government's [Gender Recognition Certificates](#) web page.

**Intersex:** An intersex person is born with ambiguous genitalia and/or sex chromosomal variations that do not fit within the typical definitions of female or male. An intersex person may self-identify as a man or a woman or neither.

**Legal sex:** In UK law, 'sex' is understood as binary, with a person's legal sex being determined by what is recorded on their birth certificate. A trans person can change their legal sex by obtaining a GRC. A trans person who does not have a GRC retains the sex recorded on their birth certificate for legal purposes.

**LGBT+:** Lesbian, gay, bisexual, transgender plus is a commonly used acronym. The "plus" is inclusive of other identities such as intersex or asexual. The acronym is often expanded to LGBTQI with "Q" standing for Queer (or questioning) and "I" for Intersex.

**Misgendering:** When a transgender person is referred to by the sex they were assigned at birth.

**Non-binary:** An inclusive term to describe people whose gender identity is "fluid" and not exclusively male or female. A non-binary person may identify as neither male nor female or may feel that they embody elements of both genders, or that they are something different. The terms intersex and non-binary are not interchangeable.

**Passing:** Used to describe people who are seen by others as being in the gender with which they identify. For example, a trans woman "passes" when she is seen by others as a woman, not as someone whose assigned gender is male.

**Real life experience:** The period of time that people must live and work in their acquired gender before being given medical treatment through the NHS. In most cases, this period is between one and two years.

**Sex:** The biological and physiological differences that define men and women.

**Transgender (or trans):** An umbrella term describing the diverse range of people whose gender identity or gender expression differs from the gender they were assigned at birth. The term can encompass individuals who are transsexual, cross dressers or non-binary.

**Trans man (female to male):** Used to describe a person who was assigned as female at birth but has a male gender identity and transitions to live permanently as a man.

**Trans woman (male to female):** Used to describe a person who was assigned as male at birth but has a female gender identity and transitions to live permanently as a woman.

**Transitioning:** The steps taken by individuals to live in the gender with which they identify. These steps will vary but may include choice of dress, changing names, medical procedures and telling other people.

**Transphobia:** A fear of or a dislike of transgender people. It is based on prejudice and misunderstanding and can involve verbal abuse, physical violence and other forms of harassment.

**Transsexual:** A transsexual person has the protected characteristic of gender reassignment and is defined in the Equality Act 2010 as someone who is "proposing to undergo, is undergoing or has undergone gender reassignment". Gender reassignment is a protected characteristic under the Act. It is not necessary for a transsexual person to have to be under medical supervision to be protected in law from discrimination.

END OF APPENDIX A

## **Appendix B - Additional Information About The Law**

This Appendix covers some information about the following applicable legislation:

- Human Rights Act 1998
- Gender Recognition Act 2004
- Equality Act 2010
- Data Protection Act 2018
- General Data Protection Regulation (2016/679 EU)

In addition, the following guidance document may be of interest to schools:  
[Government guidance on the recruitment and retention of transgender staff](#)

### **B1 Equality Act 2010**

The Equality Act 2010 protects individuals against discrimination because of a number of specified protected characteristics, including what the Act describes as the protected characteristic of gender reassignment.

Under the Equality Act 2010, a person who has the protected characteristic of gender reassignment is defined as someone who is proposing to undergo, is undergoing or has undergone a process (or part of a process) for the purpose of reassigning their sex by changing physiological or other attributes of sex. It is not necessary for the individual to be under medical supervision or surgery.

The Equality Act 2010 covers the following types of discrimination in relation to gender reassignment:

- Direct discrimination.
- Indirect discrimination.
- Harassment.
- Associative discrimination.
- Perceptive discrimination.
- Victimisation.
- Discrimination because of absence from work.

Further information on each of these is set out below.

#### **Direct Discrimination**

This is where a person is treated less favourably than another because of the protected characteristic of gender reassignment.

An **example** of direct gender reassignment discrimination would be refusing to employ someone because they are undergoing hormone therapy and living in their affirmed gender, as a woman.

#### **Indirect Discrimination**

This is where a provision, criterion or practice is applied that is discriminatory in relation to individuals who satisfy the definition of gender reassignment such that it would be to the detriment of people who share that protected characteristic compared with people who do not, and it cannot be shown to be a proportionate means of achieving a legitimate aim.

For **example**, where an employee is undergoing medical treatment as part of their transition and the medication causes fatigue, but the employer introduces a new shift pattern that requires fewer days of work but longer shifts, it might be that the employee is unable to work longer hours. Consequently, the new shift pattern puts the employee at a substantial disadvantage. This could amount to discrimination unless the employer can objectively justify the new shift pattern.

### **Harassment**

This is where there is unwanted conduct related to the protected characteristic of gender reassignment that has the purpose or effect of violating a person's dignity; or creating an intimidating, hostile, degrading, humiliating or offensive environment.

For **example**, an individual may be subjected to insulting and humiliating comments from their manager because they are a trans man. That individual can bring a claim for harassment related to the protected characteristic of gender reassignment. In addition, if that individual's colleague is also present when these comments are made, even though the comments are not directed at them, the colleague may also bring a claim for harassment related to gender reassignment. It does not matter whether or not this effect was intended by the person responsible for the conduct.

### **Associative Discrimination**

This is where an individual is discriminated against or harassed for association with another individual who has the protected characteristic of gender reassignment.

For **example**, if an employer denies an employee a promotion because they are living with a transgender partner, that would amount to associative discrimination as gender reassignment is a protected characteristic. Similarly, if an employer harasses an employee because they have a transgender family member, that would be unlawful as associative harassment related to gender reassignment.

### **Perceptive Discrimination**

This is where an individual is discriminated against or harassed based on a perception that they have a particular protected characteristic, whether or not they do, in fact, have that protected characteristic.

For **example**, where colleagues ridicule and tease an employee because they believe that they are a trans woman, this would be unlawful as perceptive harassment related to gender reassignment, even though the employee may not be trans.

### **Victimisation**

This occurs where an employee is subjected to a detriment, such as being denied a training opportunity or a promotion, because they made or supported a complaint or raised a grievance under the Act, or because they are suspected of doing so.

However, an employee is not protected from victimisation if they acted maliciously or made or supported an untrue complaint. There is no need for a

complainant to compare their treatment with someone who has not made or supported a complaint under the Equality Act 2010.

### **Discrimination Because Of Absence From Work**

This occurs where a transgender person is treated less favourably for being absent from work because they propose to undergo, are undergoing or have undergone gender reassignment than they would have been treated if absent because of illness or injury.

### **Exceptions**

There are **limited exceptions** where the Equality Act 2010 permits discrimination against someone on the grounds of gender reassignment.

These are as follows:

- Where being of a particular sex is an occupational requirement for the job and the employer can show that it is reasonable to prevent the transgender person from doing the job as a result.
- If the job involves conducting intimate searches pursuant to statutory powers, such as the Police and Criminal Evidence Act 1984.
- If the job involves working in a private home where there would be close physical or social contact, or knowledge of the intimate details of a person's life, and the employer can show that people would reasonably object to the job holder being someone who was undergoing or had undergone gender reassignment.

There are also some **temporary exceptions** that apply to someone who intends to undergo, or is undergoing, gender reassignment, but not to someone who has undergone gender reassignment.

These temporary exceptions are as follows:

- Where the employee needs to live on premises provided by the employer, reasonable objection could be taken on grounds of privacy and decency to sharing accommodation and facilities, and it is not reasonable to expect the employer either to equip the premises with suitable accommodation or to make alternative arrangements.
- Where the employee provides vulnerable individuals with personal services promoting their welfare, or similar personal services, and in the reasonable view of the employer those services cannot be effectively provided by a person while that person is undergoing gender reassignment.

There is a **special exception that may be relied on by organised religions** where there are genuine reasons not to employ a transgender person, whether or not that person has a Gender Recognition Certificate.

There are no specific provisions in the Equality Act 2010 to cover **third-party harassment**. This does not mean that employers can be more relaxed about complaints from employees of harassment by third parties.

An employer can be liable for unlawful discrimination for failing to prevent harassment only if its reason for not taking preventative action was because of a



protected characteristic such as gender reassignment or because the individual had previously raised an issue of unlawful discrimination.

In addition, employees who have been subjected to harassment by a third party may still bring a claim against their employer for constructive dismissal if the employee resigns and claims that the employer's failure to protect them amounts to a breach of contract.

An employer can also be liable for negligence if the employee suffered mental and/or physical injury because of harassment by a third party that the employer could reasonably have foreseen and prevented or reduced. **Employers should therefore continue to ensure that they take all reasonably practicable steps to prevent any harassment of employees.**

For example, if an employee who is transitioning has complained to their employer that a particular visitor in the school's cafeteria where they work has been making comments about their appearance, the employer should take steps to protect the employee from such third-party harassment. This could involve banning the visitor from the cafeteria. **Action taken should not be to the detriment of the employee.**

## **B2 Gender Recognition Act 2004**

The Gender Recognition Act 2004 allows an individual to apply to obtain a Gender Recognition Certificate and gain legal recognition in their acquired gender.

Legal recognition of a transgender person's acquired gender enables them to:

- Acquire a substitute birth certificate in the acquired gender;
- Marry in the new gender (or marry or form a civil partnership with someone of the same gender); and
- Retire and receive a state pension at the age appropriate to the acquired gender.

It may be a criminal offence to disclose information about a person's gender recognition process without their consent.

## **B3 Human Rights Act 1998**

The Human Rights Act 1998 may be relevant in interpreting other legislation in a way consistent with rights enshrined in the European Convention on Human Rights or in providing a freestanding right against a public body where Convention rights are infringed. Convention rights that may be of particular relevance to gender identity are art.8 (the right to respect for private and family life), art.10 (freedom of expression) and art.14 (the right not to be discriminated against in the enjoyment of other Convention rights).

## **B4 General Data Protection Regulation (GDPR) 2018**

The General Data Protection Regulation (GDPR) requires employers to comply with principles for processing personal data, including being transparent by providing information to employees about personal data that they hold and how it is used. Employers must protect against unauthorised access and disclosure of personal data relating to an individual's health.

There are special rules for employers to bear in mind when processing data related to an employee's health, which is one of the "special categories" of data under the GDPR. Information about gender reassignment is likely to be special category data, particularly where the transition involves medical supervision. The Data Protection Act 2018 allows an employer to process special categories of data and criminal records data where the processing is necessary for performing obligations or exercising rights under employment law, provided that the employer has the appropriate policy in place.

END OF APPENDIX B

## **Appendix C – Model Transgender Equality Action Plan**

### **INTRODUCTION**

Schools can use this action plan to set out the steps that will need to be considered when supporting an employee who is transitioning.

It provides an outline of actions to be taken to ensure that an employee's transition at work goes as smoothly as possible.

It should be shaped by the employee as much as possible and be sufficiently fluid to take account of changing circumstances and preferences.

There should be agreement on the confidentiality of the plan and who will have access to it.

Where other people are identified as being responsible for actions, it is crucial that the need for confidentiality and data protection are understood.

### **1. RETURNING TO WORK FOLLOWING TRANSITION**

#### **Actions To Be Agreed**

1. Agree a date when the employee will present for work in their new identity.
2. Agree a timeline for what needs to be done leading up to when the employee first presents at work and who needs to take what actions.

#### **Who Will Do This And By When?**

[Insert name and deadline here]

#### **Issues To Consider**

Does the employee wish to be away for an agreed period (e.g. on annual leave) and present in their new identity on their return? Another option to consider might be a suitable flexible working arrangement.

#### **Associated Points**

- The aim should be to make the employee's first day at work in their new identity as stress free as possible.
- It is important that the employee and their main contact establish an open dialogue and mutual trust.
- Does the employee wish to remain in their current role or be redeployed for the period of transition?
- Is this a temporary or permanent arrangement?
- The employee should not be pressurised to change jobs or move from a public-facing role to a back-office function.

### **2. COMMUNICATION**

#### **Actions To Be Agreed**

1. Discuss and agree with the employee the method and content of the communication. Adapt the approach as necessary for:
  - colleagues and/or direct reports;
  - other employees; and

- relevant third parties.
- 2. If planning to get information and/or support from an external organisation, ensure that arrangements are made in good time.

### **Who Will Do This And By When?**

[Insert name and deadline here]

### **Issues To Consider**

1. Who needs to know about the employee's transition and why?
2. When should those who need to know be told?
3. Who should tell them?
4. How should they be told (one to one, team briefing, email from the employee)?
5. Does the employee want to be present for all or part of the time when colleagues are being informed?
6. What general and specific information do they need (e.g. about "transitioning", names and pronouns, use of toilets)?
7. How can the employee's immediate work colleagues and/or direct reports support the employee?
8. How will queries and questions be handled (e.g. use of single-sex toilets and facilities)?

### **Associated Points**

- Transitioning is a private matter and so the wishes of the employee are paramount.
- Deciding on who is told, how they are told and what they are told must be led by the employee, with support from their main point of contact/manager.
- The employee should not be pressurised into taking responsibility for informing people.
- The size of the organisation may influence how best to communicate.

## **3. CHANGING EMPLOYEE RECORDS**

### **Action To Be Agreed**

Anything that holds the employee's name, prefix or information that could reveal their previous identity needs to be amended by the time that the individual presents in their new identity.

Examples of what records to change include:

- staff pass and unique identification number;
- email address;
- IT document systems (e.g. properties authorship);
- personnel records;
- phone directory entry;
- website and intranet profiles;
- memberships of company facilities (gyms etc);
- pension and any other employee benefits;
- business cards;
- voicemail;
- work-related subscriptions;
- articles in company publications naming the individual;

- company photos; and
- union membership.

### **Who Will Do This And By When?**

[Insert name and deadline here]

### **Issues to consider**

What records need to be amended to show the employee's name change?

### **Associated Points**

- It is important to ensure that the employee is addressed by their chosen name and that the correct pronoun and prefix are used.
- Consideration should be given to including the option of a gender-neutral title (for example Mx) on data systems and personnel records. This would accommodate any transitioning employee who would prefer not to use a gender-specific title.

## **4. CONFIDENTIALITY**

### **Action To Be Agreed**

Ensure that the information is handled in strict confidence and in accordance with the School's Data Protection Policy.

### **Who Will Do This And By When?**

[Insert name and deadline here]

### **Issues To Consider**

1. Are there any records that need to be retained, including details of the employee's gender history?
2. What are the reasons for this?
3. What steps need to be taken to ensure appropriate levels of confidentiality?

### **Associated Points**

Be careful to ensure that historical documents that contain references to the employee's previous name can be accessed only by a limited number of named individuals. This could include historical documents relating to an individual's attendance on training courses, maternity or paternity leave, or grievances raised. The reasons for retaining any historical records must be clearly outlined and explained to the employee.

## **5. PENSIONS AND INSURANCE**

### **Actions To Be Agreed**

1. Ensure that any implications in respect of pensions, insurance and other benefits are discussed with the individual.
2. Ensure that such records are handled in strict confidence.

### **Who Will Do This And By When?**

[Insert name and deadline here]

### **Issues To Consider**

Does the organisation offer a pension scheme or insurance?  
Have any benefits been assessed for the potential to discriminate because of gender reassignment?

## **6. DRESS CODES**

### **Actions To Be Agreed**

1. Discuss uniform/dress code requirements with the employee.
2. Ensure that the supplier can provide a uniform that will fit the employee.
3. Order in good time so that the uniform is ready for when the employee first presents at work in their new gender.
4. It may be helpful to provide the uniform in advance of the employee presenting at work so that they can be assured that it fits appropriately.

### **Who Will Do This And By When?**

[Insert name and deadline here]

### **Issue To Consider**

Does the employee require a new uniform?

## **7. ABSENCE**

### **Actions To Be Agreed**

1. Bear in mind that, to avoid the potential for discrimination, time off work for treatment associated with the employee's transition may have to be excluded from absences for the purposes of trigger points under the organisation's absence management procedure.
2. Ensure that absences due to transitioning are not treated less favourably than any other absence.

### **Who Will Do This And By When?**

[Insert name and deadline here]

### **Issue To Consider**

How will any absences associated with the employee's transition be handled?

### **Associated Points**

- The time off required will depend on the nature and extent of the process of transitioning that the employee is undergoing. For example, the employee may: have hormone therapy for a number of years before having surgery; need to have a number of operations; decide not to have surgery; or take breaks from their treatment.
- Discuss in advance how much time off might be required for the process of transitioning. Allow flexibility, as this will depend on what the employee chooses to do and the type of treatment and its availability.
- Plan for absences by arranging cover for the employee if necessary.
- Any treatment the employee chooses to have should not be regarded as cosmetic or elective.
- The period of time taken by an employee to complete their transition will depend on what they are choosing to do. For example, waiting times for reconstruction surgery vary across the country, and the individual may need to travel some distance for treatment.

- Be aware that some people transition without any medical intervention at all.

## **8. TRAINING ON TRANSGENDER EQUALITY**

### **Action To Be Agreed**

Check if the organisation's existing equality and diversity training and/or e-learning include training on transgender equality.

### **Who Will Do This And By When?**

[Insert name and deadline here]

### **Issues To Consider**

1. Is there a need to provide general training on transgender equality?
2. Should the training be led by an external organisation with expertise in transgender equality?
3. Does equality and diversity content on the organisation's intranet include information on transgender equality and gender reassignment?

### **Associated Points**

- Timing and context for training is important - be careful not to compromise the privacy of the individual who is transitioning.
- Training should be part of the organisation's ongoing commitment to offering an inclusive workplace.

## **9. BULLYING AND HARRASSMENT**

### **Actions To Be Agreed**

1. Review the bullying and harassment policy and procedure to ensure that it is sufficiently robust to deal with instances of transphobia.
2. Ensure that the policy is publicised and is easily accessible to employees.
3. Ensure that training provided on the policy includes references to transphobia.

### **Who Will Do This And By When?**

[Insert name and deadline here]

### **Issues To Consider**

- Who should any instances of bullying and harassment be reported to?
- How will any hostility towards the employee by other employees and/or third parties be dealt with?
- How will grievances relating to transphobia be monitored and investigated?

## **10. MEDIA INTEREST IN TRANSITION**

### **Actions To Be Agreed**

1. It may be appropriate for the press office to prepare a press statement, to use should publicity be generated.
2. Make sure colleagues understand the need to maintain confidentiality and not breach the employee's right to privacy.

**Who Will Do This And By When?**

[Insert name and deadline here]

**Issue To Consider**

How will any media interest be handled?

**Associated Point**

The employee should not be expected to deal with any press intrusion.

**PART 11 ONGOING SUPPORT OF AN EMPLOYEE TRANSITIONING**

**Action To Be Agreed**

Agree frequency and timing but be flexible.

**Who Will Do This And By When?**

[Insert name and deadline here]

**Issue To Consider**

How often should progress meetings be scheduled?

**Associated Point**

Will depend on the circumstances and needs of the individual employee.

END OF APPENDIX C



## Appendix D – Further Guidance

### D1 General Questions

#### What pronouns do I use around people undergoing gender reassignment?

Pronouns are words that describe someone's gender in the third person i.e. he or she, his or her. Some transgender people will be happy to be referred to as he or she but others may feel uncomfortable about this and prefer gender neutral pronouns e.g. they.

Misuse of pronouns is a common form of verbal harassment that many transgender people face, as it suggests that they are not the people they know themselves to be. It's important to get a person's pronouns right so that you can treat them with respect.

Sometimes, a person's gender identity can differ from their appearance or the pitch of their voice. Only use gendered pronouns such as 'he' or 'she' if you are certain that a person identifies themselves in that way. If you're not sure which pronoun to use, it is better to ask than make assumptions, but only do this if they have told you that they are transgender.

There are some situations where you cannot ask people in advance how they would like to be referred to e.g. a large training event or conference. In this situation, use gender-neutral descriptions e.g. the person in the white shirt in the back row.

#### How long does the Gender reassignment process take?

The process of gender reassignment can take several years, depending on the path the individual chooses to take. If the individual chooses to undertake medical intervention this could consist of hormone treatment, surgery, counselling, speech therapy, hair removal/growth.

#### Can someone legally change their gender?

The Gender Recognition Act 2004 enables a transgender person to legally become their acquired gender by successfully applying for a Gender Recognition Certificate (GRC). **Note:** a GRC is not required for an individual to be protected under the gender reassignment provisions of the Equality Act. This certificate can only be obtained if the person's birth was registered in the UK. The applicant also needs to satisfy a Gender Recognition Panel under the following criteria:

- The applicant has been diagnosed with Gender Dysphoria.
- Lived in their acquired gender in the UK for a minimum of 2 years prior to their application.
- The applicant intends to live in their acquired gender permanently.

The individual may change their name, title, and passport **before** attaining a GRC.

Once the person has lived in their gender identity for a minimum of two years, they are able to apply for a new birth certificate.

The Act specifies that the only time a GRC can be requested is when there is a need to change legal records such as certain payroll or pension details. This is mainly related to differences in government regulations related to dates when pension is payable, and other similar regulations.

A GRC is **not** required to change any other information. Asking to see a GRC for a reason other than for changing legal records could be seen as discrimination.

The Gender Recognition Act states it is a criminal offence to disclose an individual's gender history or the fact they have obtained a GRC unless written consent has been received from the individual.

The Gender Recognition Act requires that any records that need to be kept, that refer to a previous gender, such as qualifications or certificates, are kept away from the individual's personnel file and kept highly confidential. These records should only be accessible to people who require them to perform their job role. When the records are no longer needed, they should be destroyed in line with the Employee File Retention and Management Policy which is available on West Sussex Services for Schools.

## **D2 Questions Individuals May Ask**

### **I am undergoing gender reassignment, am I protected from discrimination?**

Yes. The Equality Act 2010 states that anyone who has undergone, is undergoing, or is considering undergoing a change in gender identity, through medical or non-medical procedures must not be discriminated against in any way. The Equality Act also protects those associated with a transgender person such as family, friends, or colleagues as well as any individuals perceived to be transgender.

### **What do I do if I am being bullied, victimised, harassed or discriminated against because I am transgender?**

If you are experiencing any form of discrimination you should talk to your headteacher / manager as soon as possible. If the behaviour that is causing concern is from your headteacher / manager then you should talk to the Chair Of the School's Governing Body. For further information please refer to the School's Grievance Policy.

**Note:** any form of bullying, harassment or victimisation may be treated as a disciplinary matter and could lead to the dismissal of the person engaged in that behaviour.

### **Where can I get advice and/or support?**

See the Contact Details listed at the end of the policy document.

### **I am undertaking gender reassignment, what do I need to do at work?**

As soon as you feel able, you should notify your headteacher / manager. This will enable them to support you through the process. You will need to think about what you want colleagues to be told, when, and who you want to tell them.

In some circumstances, you and your headteacher / manager may decide that some awareness training or a briefing session for colleagues would be beneficial.

If you have decided to undertake medical treatment, you should let your headteacher / manager know as soon as possible so that they can plan how your work will be covered during your absence. Similarly, you should give them good notice of any planned appointments with your Consultant. For further information about time off arrangements please see below.

If you wish, your personal details in the HR system (SAP) can be amended to record your identity as Transgender, and your chosen form of address, e.g. Mr/Mrs/Miss/Ms. This is not compulsory.

If you obtain a Gender Recognition Certificate you should send a copy to the HR Shared Services and relevant Pensions Teams to enable them to amend your Pay and Pension Records.

### **Will I be given paid time off to attend medical appointments/procedures related to gender reassignment?**

#### **Attendance at consultant appointments**

You are entitled to Special Paid Leave to attend these sessions. You will need to agree the dates and times with your headteacher / manager in advance. This means your absence record will show you as being on paid leave rather than off sick.

#### **Time off for surgery and recuperation**

The whole of your time off in relation to surgery should be regarded as sickness absence. This includes the period of recuperation following the surgery. You should discuss the time off requirements with your headteacher / manager as soon as possible to enable them to plan the arrangements for covering your work to minimise the impact on service delivery.

#### **Time off for other appointments**

Time off may also be needed for other appointments such as counselling. Details should be discussed with the headteacher / manager and wherever possible flexibility shown to make it as easy as possible for such appointments to be met.

### **What records need to be changed?**

Your gender cannot be changed on the tax, NI, or pension records until you have obtained a Gender Recognition Certificate (GRC), see pensions information below. This is a legal requirement. These are the only incidents when you will be asked to show your GRC. Asking to see a GRC for any other reason is discriminatory.

However, you do not need a GRC to change the following work records:

- Name (updating this on the HR system (SAP) will update your personnel, payroll and pension records – see pensions information below).
- Form of address.
- Identify that you are transgender.
- ID badge and picture.

- Email address.
- Amending information stored in your personnel file.

**Note:** You will need to contact the HM Revenue and Customs Office to notify them of your change of name (see contact details for more information).

After transition any new records should refer only to your new name and gender. Records relating to your previous identity must be amended. Unless there are any legal obligations to the contrary, such as pension requirements, previous details should be deleted. Where records have to be retained, they should be kept away from your personnel file and be kept highly confidential, accessible only to people that require the information to do their job.

Disclosure of someone's gender identity without consent from the individual may lead to disciplinary action.

The Data Protection Act gives all employees the right to request access to their personal data. You should contact HR Customer Services if you wish to do this.

### **Are there any implications relating to Pensions?**

#### **State Pension Benefits**

If you have a 'gender recognition certificate' (GRC), you will be treated according to your acquired gender for state pension purposes.

Transgender people who do not obtain a GRC are also eligible for a pension at the age relating to their permanent gender identity. This is irrespective of whether they have a GRC.

If the HR system (SAP) has been updated with your new details it should amend your pension records at the same time. The only record that the pension's team would need to change is the record stating which gender you belong to, legally this can't be changed without a GRC.

#### **Local Government Pension Scheme**

Obtaining a GRC may also have an impact on the benefits you receive under the Local Government Pension Scheme (LGPS), where certain calculations are gender specific, and where your benefits are payable in accordance with your state retirement age. Where this is applicable and you have obtained a GRC your pension benefits will be calculated using your acquired gender.

For more information please refer to the Access to Pension on Retirement (Local Government Pension Scheme) Policy or contact your [pension's administrator](#).

#### **Teachers' Pension Scheme**

Visit the TPS Member Hub at <https://www.teacherspensions.co.uk/> for ways to find out more information.

### **D3 Questions Headteachers / Managers May Ask**

#### **How do I support a member of my team who is undergoing gender reassignment?**

The transitioning process can be very difficult and potentially stressful and it is expected that you will support the employee through their transition. Respecting their dignity in the workplace and including them in all decisions is essential.

You should meet regularly with the transitioning employee to discuss and document:

- Any concerns the individual may have.
- When and how the individual would like their colleagues informed.
- Whether customers need to be informed and if so how.
- Whether awareness training is necessary for colleagues.
- Whether time off is required for appointments or procedures.
- When the transition is likely to start and how it is progressing.
- The name that they wish to be known by.
- The amendments that will need to be made to the employee's records.
- Any dress codes in place and explore any issues this may cause.
- When the employee will start using their acquired gender facilities such as toilets.
- Whether the employee would like to stay in their current role or be redeployed during or after their transition (this can't be guaranteed but should be considered if required by the specific circumstances).
- Remind the person that they may access support from Health Assured. In some cases, this may include 1-2-1 counselling. See contact details for more information.
- The possible side effects of any medication they receive and the adjustments that can be made.

A checklist can be provided to the employee of all internal systems that need to be changed and line managers can assist in the process.

See also **Appendix C** for an example checklist with more information.

Be aware that everything discussed and recorded at meetings must be kept strictly confidential. The person transitioning will determine the timescale for change.

The individual may still need your support once the process has been completed. You should therefore continue to meet to discuss how things are going and any concerns they may have. However, under no circumstances is it ok to talk about or reveal someone's gender identity to colleagues or friends and family in or outside of WSCC.

### **How can colleagues help?**

The colleagues of a transitioning employee have a huge bearing on how successful a transition is in the workplace. Colleagues should ensure that they use the transgender employee's new name and use the pronouns appropriate to their acquired gender. Whilst the expectation is that all colleagues will make every effort to use the new name and form of address, the transgender employee should be aware that this may take some getting used to and mistakes may be made in the early days. If necessary, their Headteacher / manager

should reiterate that continued use of the old name or form of address is not appropriate.

Whilst colleagues are expected to be supportive of the change the individual is undergoing it is not appropriate for them to ask about the transition, surgery, medication, and so on. However, it is understood that colleagues need to be able to ask questions. Therefore, headteachers / managers must set a tone of absolute inclusion and respect and it is the transitioning employee's choice as to whether they are answered. This communication will need to be practical and address important issues such as how to support the colleague and how to deal with questions that may come from outside the team without breaching confidentiality.

Each transition is unique. Headteachers / managers and colleagues should not make assumptions about what support is needed or how the transition will progress.

Any inappropriate and/or discriminatory behaviour (including language) is not acceptable and may lead to disciplinary action and, ultimately, could result in dismissal. Concerns about such behaviour may be raised as a behaviour related grievance by the transitioning employee or anyone witnessing the behaviour.

### **How do we inform other members of the team?**

Notifying colleagues is normally a difficult stage of the process and the individual will often have a lot of anxiety on the reaction they are going to receive from their colleagues. Therefore, the headteacher / manager must actively support the employee and their colleagues to encourage a positive outcome.

You can contact the [LGBT Switchboard](#) for advice on how to inform colleagues, including awareness training. Health Assured, our Employee Assistance Programme provider, are also able to facilitate team awareness raising discussions and training.

The individual and their headteacher / manager should agree how and when their colleagues should be informed. This should always be the decision of the employee and no pressure should be put on the employee by their headteacher / manager. The employee may decide they would like to talk to their colleagues themselves or they may request that the headteacher / manager does this on their behalf.

If the headteacher / manager is asked to inform the rest of the team and other colleagues, they should ask the employee how they would like this to be done, the words to use and whether they would like to be present at the time of notification.

Information about who is undergoing or considering undergoing gender reassignment must never be disclosed without that individual's explicit consent.

### **How should we notify others?**

You should discuss who else needs to be informed. The timing of this disclosure may be different to when colleagues in school are informed, more likely a later

date. It may be that colleagues will be able to help with this but they will need to be briefed on what to say, to whom, and so on.

The [LGBT Switchboard](#) may be able to advise you on the best way to inform others, including children and young people.

### **What do we do about use of toilets, showers, etc.?**

You should agree when the individual will begin using their acquired gender's facilities, such as toilets. The date for this will be determined by the individual and is likely to be at work as their acquired gender.

It is not acceptable, and is discriminatory, for a transgender person to be expected to use a disabled toilet or to use the toilets of their birth gender once they begin to live in their acquired gender.

### **The role undertaken by the individual requires them to wear a uniform (or some other form of dress code). What do we do?**

Consideration should be given to what, if any, flexibility may be required to accommodate the transition, if there is a dress code/uniform applying to the job undertaken by the employee. You will need to agree when the employee will start to wear the uniform/change to the dress code of their acquired gender. The employee should take the lead on this matter and state what they would find to be most comfortable providing it be reasonable.

### **Are there implications for recruitment and selection?**

Some jobs will have a "genuine occupational requirement" for someone of a specific gender to undertake the role, e.g. where there is a need to carry out personal care and there is no one else who could undertake those duties.

Being transgender should never affect the recruitment or selection process and this is unlawful. An individual does not have to disclose the fact they have undergone a change in gender identity, this question should never be asked at an interview as it would not have a bearing on the individual's ability to do the job. It is also unlawful to dismiss someone on the grounds that they did not disclose during the recruitment process that they are transgender.

References and qualifications may be in an individual's former name. If this is the case, an individual's gender history must be kept highly confidential. There would be no reason to inform the recruiting headteacher / manager of the fact that the individual has undergone gender reassignment as it would have no bearing on their decision to appoint.

Individuals applying for a role working with children or vulnerable adults are likely to have to apply for a Disclosure and Barring Service (DBS) disclosure. Part of this process involves a strict requirement for applicants to state all previous names and aliases. The last page of the form then has to be completed by the "Registered Person" who checks and verifies the contents and the evidence supplied. This means there can be some anxiety about the implications of this for transgender applicants and existing employees.

People undergoing gender reassignment **do not** need to refer to their previous identity. Similarly, employers **must not** disclose the previous identity to anyone, including through references provided as part of a recruitment process or similar.

DBS applications need not be a problem for transgender people. There is a specific process which they can follow in order to avoid any problems they would otherwise face in complying with the requirement to make truthful statements. This process does not weaken the effectiveness of this process in any way. Further information and more detailed steps are explained on the [DBS website](#). Applicants may telephone the DBS on 0151 676 1452 to discuss this matter in confidence, or alternately email DBS at [sensitive@dbs.gsi.gov.uk](mailto:sensitive@dbs.gsi.gov.uk)

The gender history of a previous employee who underwent gender reassignment whilst employed by WSCC must not be disclosed in any references given.

END OF APPENDIX D