

**HR Policy**

**Transgender Inclusion & Gender Diversity**

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| Version Control | Changes Made | Author |
| Version 1March 2021 | This document gives an overview of gender identity and transitioning and outlines considerations that need to be made in the workplace.  | People Management |

Introduction

Cumbria County Council does not discriminate in any way because of sex, sexual orientation, gender reassignment, gender identity, or gender expression. This policy is designed to create a safe and productive workplace environment for all employees which supports transgender and non-binary employees; identifies the support offered to staff who are transitioning; and sets out the expectations of behaviour for other members of staff in relation to transitioning and gender identity. The County Council understands the benefits to the community of having a diverse and highly effective workforce and values the added contribution that its employees can make when it recognises their individual differences.

The word transgender describes a person whose gender identity, gender expression or behaviour does not conform to the sex they were assigned at birth. Transitioning is a term used to describe the process and steps an individual takes to live in the gender they identify as. For some this involves medical intervention, such as hormone therapy and surgeries, but not all trans people want or are able to have this. Transitioning could also involve dressing differently, changing official documents, telling friends and family that you are transitioning, or several other changes. The terms ‘trans people’ and '‘transgender people’ are both often used as umbrella terms for people whose gender identity and/or gender expression differs from the gender they were assigned at birth.

Some people have non-binary gender identities and do not identify as feminine or masculine, others may have some other gender variant identity.

Definitions and terminology regarding transgender people are evolving. Appendix One to this policy provides guidance on some of the most used terms. Individuals will self-identify and how they choose to describe themselves should be respected by their managers and colleagues. Rather than assume, it is best to ask someone how they wish to be addressed.

Scope

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

Overview

For many people their personal sense of being feminine or masculine - their gender identity - matches their birth sex and they do not have any questions over their gender identity. However, some people’s gender identities do not match the gender they were assigned at birth. There is a wide range of ways that people can express gender identity and people should be free to express this in the way they are most comfortable with without facing discrimination. Individuals will always view themselves and their experience in a unique way and will have personal preferences in terms of the language that their employers use and it is important to listen to these personal preferences.

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

[Responsibilities](http://www.intouch.ccc/elibrary/Content/Intranet/536/671/5053/6001/41410105256.doc)

**Employees**- All employees are responsible for the following:

* Working in a way that we treat all our colleagues as individuals, without referencing their gender identify unless it is relevant
* Supporting colleagues who are transitioning at work
* Helping all our colleagues to be more aware about gender identity issues – see Trans Awareness e-learning https://cumbria.learningpool.com/enrol/index.php?id=1517
* Ensuring that no-one experiences discrimination, harassment or victimisation because of their gender identity or gender expression
* Treating colleagues and members of the public in an inclusive and respectful manner regardless of their gender identity or gender expression
* Maintaining confidentiality about a person’s previous gender role. To ‘out’ someone, whether a member of staff or service user without their permission is a form of harassment and, in several contexts, may also amount to a criminal offence
* Treating any issues of bullying and harassment in relation to gender identity or gender expression seriously.

**Line Managers/Supervisors** – are responsible for ensuring that the work environment is supportive of people’s gender identities and where appropriate supporting any of their staff members throughout their transition, discussing practical issues such as communication and facilities and listening to any concerns.

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

Legislation

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

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

The Gender Recognition Act 2004[1] is an Act of the Parliament of the United Kingdom that allows trans people to change their legal gender. The Act gives people legal recognition as members of the sex appropriate to their chosen gender (male or female), allowing them to acquire a new birth certificate, affording them full recognition of their acquired sex in law for all purposes, including marriage.

How we can support colleagues

Changing Name and Gender

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

Gendered Language

Wherever an individual’s title is requested, the option ‘Ms’ or ‘Mx’ should be made available. Wherever the gender identity of an individual is requested, the options to decline to specify or to self-describe should be provided for. Whenever possible all correspondence related to employment should use non-gendered terminology when referring to a group of individuals or an individual of unspecified gender identity. For example, instances of ‘he/she’ should be superseded by ‘they’ or ‘their’. All individuals at Cumbria County Council should refer to individuals using their preferred name and pronouns. Similarly gender specific terms for job roles should not be used eg use firefighter in place of fireman and chairperson in place of chairman.

Pre-Employment

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.  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 our 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.  Job applicants may speak to a dedicated colleague within the Resourcing Team during the recruitment process if they wish to.

Criminal Records Checks

The Disclosure and Barring Service (DBS) offers a confidential checking process for transgender applicants.

This process is for transgender applicants who do not wish to reveal details of their previous identity to the person who asked them to complete an application form for a DBS check.

For more information about the transgender process see the DBS [Transgender Applications guidance](https://www.gov.uk/guidance/transgender-applications) which can be found at [www.gov.uk](http://www.gov.uk). Or contact their dedicated Customer Services team:

Sensitive Applications Team

Customer Services,

Disclosure and Barring Service

PO BOX 165,

Liverpool,

L69 3JD

Phone: 0151 676 1452 (Direct line)

Email: sensitive@dbs.gsi.gov.uk

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

Informing colleagues

The wishes of the individual are most important, and line managers and HR have a responsibility to see that the process of informing others is safe and respectful. In some circumstances the trans person may wish to disclose these matters personally to some or all of their contacts. If this is the case the employer will need to know when this is going to happen, and what kind of information will be given to work colleagues, so that support is available to both the individual and any other members of staff involved.

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

A case by case decision on the extent of the disclosure of this information should be agreed by the person concerned and the manager. External clients or agencies that the trans individual is currently working with may also need to be informed, but only with the consent of the trans person.

The Role of Occupational Health

A person transitioning or planning to transition can be referred to Occupational Health for advice and support. Occupational Health cannot seek to replace the specialist medical advice, assessment and support required by individuals who are considering gender reassignment, but they can give general advice on fitness for work and any medical issues which may impact on an individual’s ability to carry out the full scope of their job. Generally speaking, trans people are no more at risk than their work colleagues but following any surgery, advice may be needed about any temporary adjustments to help those returning to work who may not, at first, be able to undertake all aspects of their former role.

Anyone referred to Occupational Health can expect the issues to be dealt with in the strictest of confidence, as would be expected from any other practitioners providing care.

Time off for medical treatment

Any time off an individual needs because of gender reassignment issues, such as counselling, advice or surgery is protected under the Equality Act and will be treated in the same way as absence because of sickness.

It is recognised that the transition process and the time it takes will be unique to each individual, and once an employee confirms that they are starting, or have started, the process of transitioning a confidential action plan will be agreed to manage their transition at work and any time off which is expected to be required.

Consultations and hospital appointments may require full days away from work in addition to any time required for in-patient surgical procedures and post-surgery convalescence recovery. Flexibility should be allowed for individuals to undergo treatment, and absences related to gender reassignment treatment (e.g. surgery, hormone therapy etc.) should be discounted for the purposes of the Absence and Wellbeing Procedure within reason, as outlined in the section on Planned/Unplanned Operations.

Dress and Appearance

Where staff are required to wear a uniform, all staff must be able to choose the uniform which they feel is most appropriate for their gender identity where this does not conflict with relevant health and safety requirements.

Health and safety requirements will be considered when looking at adjustments to uniforms where there is a need for this

Use of gender specific 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 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.

If others do not wish to share the gender specific facilities, they should use alternative facilities.

Other protected characteristics

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

Media Interest

Strict confidentiality should be maintained, and no information should be provided to the media. Any media queries should be addressed to the Communications Team in consultation with the individual concerned.

References

When providing references to a prospective new employer, the reference should be in the name which will be used in the new job. A reference must not disclose a former name. It may sometimes be necessary for a trans person to disclose a previous identity for references from past employers to be obtained. In these cases strict confidentiality and respect for dignity should be applied and information kept secure.

Professional Registration

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

For Schools:

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| --- | --- |
| Name of School: |  |
| Date by which School have adopted procedure: |  |
| Signature of Chair of Governors |  |

**Date**



**HR Guidance**

# Appendix 1 Guidance

Definitions

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

**Ally**

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

**Agender**

'A-' meaning "without", also called genderless, genderfree, non-gendered, or ungendered,are those who identify as having no gender or being without a gender identity.

**Cisgender / Gender Normative**

Describes someone whose gender identity matches the sex that they were assigned at birth. Non-trans is also used by some people.

**FTM: 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.

**Gender**

Gender is the range of characteristics pertaining to, and differentiating between, femininity and masculinity in a society. Gender is socially constructed and may not necessarily match an individual’s biological sex.

**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**

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

**Gender Fluid**

Some people express a desire to remain flexible about their gender identity rather than committing to a single definition. They may fluctuate between differing gender expressions over their lifetime, or express multiple aspects of various gender identities at the same time. They may at times identify as bigender - shifting between masculine and feminine; or as trigender - shifting between these and a third gender, or something else entirely.

**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 Role**

Refers to the sets of activities, thoughts, emotions, and/or behaviours traditionally considered normal for a particular gender (such as for women or for men) within a culture.

**Gender Variant / Gender Non Conforming**

Someone who does not conform to the gender roles and behaviours assigned to them at birth, displaying gender traits that are not normatively associated with their biological sex. “Feminine” behaviour or appearance in a male is gender variant, as is “masculine” behaviour or appearance in a female. Gender‐variant behaviour is culturally specific. This is usually used in relation to children or young people

**Heteronormative**

Heteronormativity is the belief that heterosexuality is the default, and therefore the preferred, expression of sexuality. It is also often associated with beliefs in birth-based gender expression (e.g., the genitals you are born with determine your gender identity), a clear gender binary, and traditional gender roles.

**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.

**Mx**

The gender-neutral Mx. is used as a title for those who do not identify as being of a particular gender, or for people who simply don't want to be identified by gender. 'Mx.' is a gender-neutral title for those who don't wish to be identified by gender

**MTF: 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.

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

**Queer**

In the past a derogatory term for LGBT individuals. The term has now been reclaimed by LGBTQ+ young people in particular who don’t identify with traditional categories around gender identity and sexual orientation, but is still viewed to be derogatory by some. It is sometimes used as an umbrella term for many non‐heteronormative identities. Care should be used when employing this term, so as not to cause offense.

**Sex (Anatomical/ Biological)**

Separate from gender, the physical structure of one’s reproductive organs that is used to assign sex at birth. Given the potential variation in all of these, biological sex must be seen as a spectrum or range of possibilities rather than a binary set of two options. Sometimes the terms ‘sex’ and ‘gender’ are used interchangeably in our society – but this is not technically correct. It is important to distinguish between the two separate concepts, and to be clear about which one we are referring to.

**Sexual orientation**

Separate from gender identity, this term refers to how one identifies regarding the people to whom one is sexually or romantically attracted. Sexual orientation, a person’s emotional, romantic and/or sexual attraction to another person and this may not be related to any physical sexual characteristics.

**Transgender/Trans**

Used both as an umbrella term and as an identity. Broadly, it refers to those who do not identify with or are uncomfortable with their assigned gender and gender roles. As an identity, the term refers to anyone who transgresses traditional sex and gender boxes. Trans describes a wide range of gender identities including people whose gender is not the same as, or does not sit comfortably with, the gender 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, non-binary, genderqueer.

**Transition**

Gender transitioning is the process of changing one's gender presentation and/or sex characteristics to accord with one's internal sense of gender identity.

**Transphobic abuse**

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