



OFFLEY PRIMARY ACADEMY GENDER REASSIGNMENT PROCEDURE

SCOPE

This procedure applies to all school staff within Offley Primary Academy.

AIMS

To set out the statutory rights & responsibilities of employees who are, or may in the future undergo reassignment surgery, by providing clear information and guidelines to staff and managers.

EQUALITY

Schools should ensure that, when implementing the Gender Reassignment Procedure no employee will be disadvantaged on the basis of their gender or transgender, marital status or civil partnership, racial group, religion or belief, sexual orientation, age, disability, pregnancy or maternity, social or economic status or caring responsibility. This means that the Procedure may need to be adjusted to cater for the specific needs of an individual including the provision of information in alternative formats where necessary.

TRANSSEXUALS AND GENDER REASSIGNMENT

Transsexual people are those who decide to adopt the opposite gender to that assigned at birth because they do not feel that their gender identity matches that assigned to them (GenderDysphoria). Gender reassignment is the process of changing to the new gender identity. This may involve surgery but some transsexual people will choose not to undergo this. The process of gender reassignment normally involves a period of at least a year whereby the transsexual person must live and work in the gender to which they are reassigning and are taking hormone treatment. The final stage for some individuals is to undergo surgery, which as long as there are no extraneous delays (for example funding problems or waiting lists), will usually be undertaken within one or two years of the commencement of hormone therapy.

Transsexuals should not be confused with transvestism, where a person wears clothing appropriate to the opposite gender.

LEGISLATION

The Gender Recognition Act (GRA) 2004 allows transsexual people who have undergone gender reassignment to apply for a gender recognition certificate.

When a gender recognition certificate has been issued the transsexual person is afforded all the rights and responsibilities appropriate to that gender. There is no obligation for an individual to apply for a gender recognition certificate.

There are special laws protecting a person who holds a gender recognition certificate, and a person may commit a criminal offence if he/she discloses information about the gender history of a person with a gender recognition certificate without their consent.

If their birth was registered in the UK, they will automatically be entered on the Gender Recognition Register held by the Registrar General and they will receive a new birth certificate in their acquired name and gender.

The Equalities Act 2010 says that a person who is proposing to undergo, are undergoing or have undergone a process (or part of a process) to reassign their sex by changing physiological or other attributes of sex have the protected characteristic of gender reassignment. Under this Act gender reassignment is a personal process, of moving away from ones birth sex to a preferred gender. It may include undergoing medical procedures or may just simply include just choosing to dress in a different way as part of a persons desire to live a different gender.

Once a person can show that they have reached a definite position and are proposing to undergo gender reassignment, they are protected. "Proposing" can be

- Making their intention known (even if they do not take any further steps)
- Starting to dress or behave like someone who is changing their gender or is living in the opposite sex (someone who is driven by their gender identity to cross dress would also be in the process of gender reassignment, however intermittently it manifested itself)
- Where a person is undergoing counselling related to the process, this would signal that they are proposing to undergo gender reassignment

The Act provides protection against any direct discrimination and harassment connected with the protected characteristic of gender reassignment, thus where someone is a transvestite but is not driven by their gender identity to cross dress they will be protected, if they are *perceived* to be proposing to undergo gender reassignment.

The Sex Discrimination Act 1975 states that it is unlawful for an employer to treat someone less favourably in relation to employment or vocational training (this includes an employee, job applicant or contractor) on the grounds of that persons gender reassignment.

The Act covers recruitment, transfer, training and promotion, access to work related benefits, facilities and services, dismissal and any other detriment. It is also unlawful for an employer to instruct someone else to do something discriminatory (e.g. telling an employment agency not to hire a transsexual person). Pressure to discriminate is also unlawful (e.g. employees threatening not to work unless their employer dismisses a colleague who has decided to undergo gender reassignment).

This protection applies regardless of whether the person holds a gender reassignment certificate or not.

There are limited exceptions where it is lawful to prevent someone from doing a job on grounds of gender reassignment e.g. where being a man or woman is a genuine occupational qualification for the job, as set out in the Sex Discrimination Act 1975 and it can be shown that it is reasonable to prevent the transsexual person from doing the job as a result. The exceptions do not apply to someone with a gender recognition certificate.

RECRUITMENT

A person's gender is irrelevant to the recruitment process except in limited circumstances where being a man or woman is a genuine occupational qualification for the job, in these instances this will be made clear in the recruitment advert. It should not be expected that applicants and interviewees for employment should disclose their transsexual status and it is not a question that should be asked at interview, as it is not a relevant criterion in selection.

If they choose to disclose it this information shall remain confidential and will not be taken into account in the selection process.

Any forms and documents that are provided during the interview and resulting procedures will be considered confidential and will not be accessible by any one outside of the HR department and the individual themselves.

If a CRB is required applicants must disclose any previous name and/or gender to the CRB and transsexuals may make use of the special application procedure at CRB by contacting them directly.

EMPLOYMENT

If a person becomes aware of the gender history of an employee who has undergone gender reassignment, this information will remain confidential and the information will not be disclosed to a third party without the employee's consent. All employee records that relate to the employees previous gender will be kept confidential and once they are no longer required they will be destroyed.

The gender history of an employee who holds a gender recognition certificate will not be relevant to any employment decisions and they will be treated in accordance with their acquired gender. If an employee has undergone gender reassignment but does

not hold a certificate they will need to disclose their history for pensions purposes, this information will only be passed to the people who require it and will be kept confidential.

Should an employee be employed in a role that requires a genuine occupational qualification and changes gender, consideration will be made to adjustments to the role to accommodate this or where necessary effort made for either temporary or permanent redeployment. None of this applies to an employee with a full gender recognition certificate.

TIME OFF FOR GENDER REASSIGNMENT

Transsexual people undergoing medical and surgical procedures related to gender reassignment may require time off from work.

The first stage of reassignment, under the supervision of a qualified medical practitioner, may take several months or years. Appointments may be required during normal working time, managers and employees should refer to the Time off for Health Appointments Policy in order to account for this time.

Once the employee has elected for reconstructive surgery the time taken for this will vary greatly from 2 to around 12 weeks, depending on the nature of the surgery undertaken. Absences up to 28 days will fall under short term absence monitoring; longer absences will fall under long term in line with someone undergoing any other serious operation. Managers and employees should refer to the Managing Attendance Procedure and Time off for Elective Surgery Policy.

PROCEDURE/AGREEING A PROCESS

Schools should be supportive of any employee who expresses an intention to undergo gender reassignment and will work with them to assist in a smooth transition.

Once the employee has advised their line manager of their intentions a meeting will be held in order to agree a process, including a point of contact (should the employee wish this to be someone other than their line manager). The meeting will be well-documented and discussions should identify the support and guidance that the employee might need and resolve potential areas of conflict before they arise.

Consideration will be given to;

- Time scales for procedures if known
- Support for the employee e.g. OHU
- Dress code i.e. does there need to be flexibility on uniform during the transition, when a new uniform will be required
- When the employee expects to change their name and start to present to work in the new gender
- Whether the employee wishes to inform colleagues of the change or if they wish the line manager to undertake this
- What information and training is to be give to managers and work colleagues
- The point at which the employee will start to use single sex facilities etc in their new gender

- Personnel records – after transition records relating prior to the transition will be destroyed.
- Agree frequency of follow up meetings

CHANGE IN GENDER

When the employee starts to live full time as a member of the new sex their name and other records will need to be changed formally. As part of this process the employee will decide the appropriate point when a form of dress and the use of single sex facilities will be adopted that accord with their new social gender. It should be understood however, that this change in social gender, whilst usually taking place during or after hormone therapy, will sometimes occur years before the final surgical procedure. For some individuals, this will never take place. These issues must be discussed fully with the individual.

USE OF SINGLE SEX FACILITIES

Part of the discussion process with the individual undergoing gender reassignment will be to agree the point at which the use of facilities such as changing rooms and toilets should change from one sex to the other. An appropriate stage for using the facilities of the employee's new sex is likely to be the change of social gender. Following discussions with the individual, a transsexual person should then be granted access to the relevant facilities. It is not acceptable, in the long term, to expect a transsexual employee to use separate facilities, such as a disabled person's toilet.

INFORMING MANAGERS AND COLLEAGUES

Should the employee wish their line manager to advise other managers and colleagues of their gender reassignment it should be discussed in this meeting. The employee should discuss when the disclosure is to take place and in what detail, so that they can agree and provide appropriate support. Employers should not inform colleagues, clients and the public that an employee is intending to undergo, or is undergoing, gender reassignment, without the individual's explicit agreement.

Education should take place on two levels. General information about transsexualism and specific information to enable people to understand the needs of the person involved. Any meetings held should be documented.

It is never appropriate to inform colleagues, clients and the public that an employee has in the past undergone gender reassignment. This should be a private matter since gender reassignment will have no bearing on that person's ability to do their job. Managers should be aware that if an employee is in possession of a gender recognition certificate, it is unlawful to disclose their transgendered status without their consent.

If someone has 'transitioned' prior to joining an employer, the manager should not mention their transsexual history. Indeed, this could constitute a criminal offence in the case of someone who has obtained a gender recognition certificate.

All employees should refer to the transsexual person by their new name and use pronouns appropriate to their new gender role.

RECORDS, REFERENCES AND CERTIFICATES

All personnel records must be updated for the transition. Managers, Shared Services and HR will create new records rather than amend old ones, to ensure confidentiality. All data protection principles will be adhered to.

Schools should ensure that all documents & public references, such as telephone directories, intranet contacts etc, and employment details reflect the acquired gender of the person. This will prevent any breach of confidentiality.

Where documents have been sent and copies taken at the point of starting employment (such as birth certificate, exam certificates etc), then every effort will be made to replace those with equivalent documents in the new name and gender.

In some instances, however, it may be necessary to retain records relating to an individual's identity at birth, for example pension purposes. However, once a person has obtained a Gender Recognition Certificate, these **MUST** be replaced with new details.

Access to records showing the change of name and any other details associated with the individual's transsexual status, (such as records of absence for medical treatment) must be restricted to employees who need the information to do their work.

They could include people directly involved in the administration of a process, for example, people involved in the pension scheme. They do not include colleagues or clients.

References should be given without disclosure of an employee's previous gender.

Evidence of professional status or qualifications shall be stored confidentially so as not to compromise or breach disclosure of protected information.

Once a person has obtained a Gender Recognition Certificate, there must be no disclosure of this information. Not least because it may be a criminal act subject to a maximum £5000 fine. Breaches of confidentiality should be treated in the same serious manner as disclosure of personal details of any other employee.

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