Transgender Guidance

"People perform better when they can be themselves".

[Stonewall]

People Management

Adopted: August 2015

Reviewed: September 2020, September 2023



sirgar.llyw.cymru carmarthenshire.gov.wales



1.0 Introduction

We (Carmarthenshire County Council) are responsible for delivering a diverse range of services to the community that we serve. Our success depends on the people we employ and being able to draw on their different perspectives and experiences. We are committed to supporting all trans people, including those with non-binary identities, in the workplace.

By attracting, recruiting and developing people from the widest possible pool of talent we can develop a better understanding of our customers' needs now, and in the future to ensure our success.

We are all different. Our different backgrounds, experiences and perspectives mean that we think about issues in different ways and can identify new solutions and opportunities to improve. These skills are important for us all so that we can deliver the best possible service to the public.

There is a wealth of research to show that workplaces that are more inclusive are more productive.

If barriers exist to the recruitment and retention of trans staff¹, we could miss out on this potential. We know that trans people often leave their jobs before transitioning and often take lower paid jobs when they return to the workplace, often because of the possible discrimination they imagine they will face if they stay in their place of work. This can result in a loss of expertise and investment. We are committed to ensuring that all employees are treated fairly and with respect at all stages of employment including the recruitment process.

This guidance should be read in conjunction with the <u>Equality and Diversity Policy</u>. Please read **Appendix 1** – Glossary of terms, in advance of this guide.

2.0 Aims and Objectives

This guidance has been produced to support our employees and managers in understanding the experience and process of transitioning and the potential barriers that may inhibit a trans person in reaching their potential in the workplace. It provides helpful guidance on supporting trans applicants and employees, creating an inclusive working environment and what a trans person can expect in terms of support. The specific aims of this guidance are to:



¹ The term 'trans' is used as an umbrella term throughout this document.

- Ensure that trans people and individuals undergoing the transition process or who have transitioned are treated with fairness and support during the recruitment process and their employment.
- Provide all employees and managers with guidance on the statutory protections for trans people undergoing the transition process.
- Detail the appropriate procedure to be followed when a trans person applies to work with us following transition, or states that they are about to transition whilst in our employment.
- Provide details on what support should be provided by our managers to employee who are transitioning.

3.0 Scope

This guidance covers all employees regardless of sex, gender identity or expression including centrally employed teachers but excludes staff on the complement of locally managed schools for whom separate guidance applies. In the absence of guidance agreed locally by individual schools the principles of this guidance should be followed.

4.0 Trans people and transitioning

Trans people are people whose gender is not the same as, or does not sit comfortably with, the sex they were assigned at birth.

Transitioning is the term used to describe the steps a trans person may take to live in the gender with which they identify. Each person's transition will involve different things. For some this involves medical intervention, such as hormone therapy and surgeries, but not all trans people want or are able to have this. Transitioning may also involve, e.g., telling friends and family, dressing differently and changing official documents.

5.0 Protection in employment

The Equality Act 2010 makes it unlawful to treat someone less favourably than other people in relation to employment or vocational training on the grounds that they propose to start or have completed a process to change their gender. The protection applies whether or not the individual has a gender recognition certificate.

Harassment or bullying on the grounds that a person is proposing to transition, is transitioning or has transitioned is unlawful discrimination.



The Gender Recognition Act 2004 allows trans people who have transitioned to apply for a gender recognition certificate. When a full gender recognition certificate has been issued, the person is considered in the eyes of the law to be of the acquired gender. There is no obligation on an individual to apply for a gender recognition certificate and there may be good personal reasons why someone has not applied for one.

6.0 Recruitment

A job applicant's gender identity status is irrelevant to the recruitment process, except in the rare circumstances where a Genuine Occupational Requirement (GOR) applies to the job. We will not ask questions about gender identity status within the job application form and job applicants are not required to volunteer information about it unless an occupational requirement makes this relevant. A GOR for a specific gender is rare, however this may arise in certain caring roles, if this is the case it will be made clear at the job advertisement stage. A job applicant with a gender recognition certificate is never required to disclose their gender history.

We are committed to recruiting, retaining and developing a workforce that reflects the communities that we serve and we will ask all applicants (separate to the job application form) to complete an equality monitoring questionnaire to support us in improving the way that we work. The questionnaire does not form part of the selection process and is completed on a voluntary basis. We do however encourage all applicants to complete this as the information provided supports our ability to assess the impact of our policies and processes.

If during the recruitment process information is disclosed about a job applicant's gender history, i.e., because certain documents are in a previous name, e.g. right to work documentation, passport, driving licence, we will keep the applicant's gender history confidential and will not take this into account in the selection process, unless a GOR makes this relevant. In accordance with our Equality and Diversity policy, we will assess candidates for employment objectively against the requirements of the person specification detailed within the job profile.

If disclosure from the Disclosure Barring Service (DBS) is required as part of the recruitment process, applicants must disclose any previous names and/or gender to the DBS. Trans applicants may make use of the special application procedure established by the DBS so that their previous name is not disclosed to our organisation.

Please refer to **Appendix 2** - Useful sources of information and advice.

7.0 Employment



It can be extremely difficult step for someone to approach their manager to tell them that they are planning to transition. Often the person does not know what the manager's response will be or how the news will be received generally at work.

Managers should follow the principles below to support individuals:

- Listen, show support, discuss levels of confidentiality, agree to seek advice and agree to work in partnership. The process should be led by the employee as much as possible.
- Take advice from the Human Resources (HR), Occupational Health, Safety and Wellbeing (OH, S & W) and Learning & development (L&D) teams, as appropriate.
- Understand that employees have a range of experiences or objectives. Some
 people prefer as few people as possible to know about their transition and
 decide to discuss this only with their manager but require no further action;
 some employees may be planning a medical intervention or may prefer
 transition that does not involve medical intervention or surgery. The key thing
 is that managers need to adopt an approach that meets the needs of the
 individual employee.
- Agree with the employee what steps need to be taken before, during and after their transition. Some people refer to this as developing an agreement or an action plan.
- A series of review meetings should be scheduled between the employee and the manager, at an agreed frequency as part of any agreement or action plan, and at any significant stage of the process (e.g., fortnightly/monthly);
- The plan should be updated and developed, not fixed.
- There should be an agreement about where the plan or any meeting notes are kept and who has access.

A trusting and open relationship between a trans employee and the manager is important. This should involve joint problem solving (such as anticipating and planning for any concerns), respecting confidentiality, being reliable (doing what you say you are going to do) and developing empathy and understanding. A suggested template of recording discussions between the employee and the manager is in **Appendix 3**.

8.0 Practical implications when transitioning occurs during employment with us.

Where an employee transitions during their employment with us, we are committed to ensuring that assistance, support and advice is made available to the employee and manager where appropriate.

Transitioning is a unique process for each employee and may include any number of changes to an individual's life. It should not be assumed that the goal of every person is to change their physiology or legal gender.



Employees can seek support from their manager, or the HR, OH, S & W and L&D teams.

Managers may find it helpful to consider the template at **Appendix 3** however the first step will be to ask the employee how they would like to manage their own transition in the workplace.

Managers will be guided by the employee in terms of the speed at which the transition will progress and will aim to reach agreement on such matters as:

- When the employee will first present in their gender.
- When name changes and official records will be changed.
- How and when colleagues will be informed of the change.
- How information will be managed and by whom.
- When the employee will start using facilities relating to the gender to which they are transitioning or identify.
- Time off that may be required for medical or surgical treatment, and/or possible side effects.
- Whether time off will be taken before returning to work in the acquired gender.

Additionally, the employee may wish to request temporary or permanent adjustments which will support their transitioning process. Suggestions for workplace adjustments should be led by the employee. The manager should consider such requests empathetically, and can use the <u>Reasonable Adjustment Guidance</u> to support. Any agreed adjustments can be recorded on the reasonable adjustments form, being mindful of confidentiality. Under no circumstances should information be passed to anyone else without the express permission of the employee who is transitioning.

There are a series of practical considerations, (some of which have legal implications) that managers should address in conjunction with the employee:

- Dates and timescales establish when key changes will take place and how
 they fit with any relevant work deadlines. These key changes will vary
 depending on the employee but could include name, documentation, physical
 changes or short term or permanent role changes. Practical issues relating to,
 e.g., the availability of key people to support the process, shift patterns, could
 be considered.
- Records and systems what need to be changed, when this will happen
 and what will happen to "old" records? This includes, e.g., photographs,
 biographies, on our website or intranet through to historical information on HR
 records (such as a reference to a previous period of maternity leave for a
 transgender man). Payroll and National Insurance details may also need to be
 adjusted so it is essential that where other people in our organisation need to
 be aware, this is within an informed context.
- Communication with colleagues managers should encourage the employee to describe what they think will be best for them. This could be verbal communication at a team meeting or on a 1:1 basis, the trans person could choose to be present or absent, it could be via an agreed electronic



communication. The employee may not be ready to tell anyone else at the early stages and if that is the case, this should be respected. Every situation is different, but the communication needs to provide some general awareness raising and address issues specific to the employee. Colleagues need to be able to ask questions and managers must set a tone of absolute inclusion and respect. This communication will need to be practical and address important issues such as how to address the trans colleague (new name, correct pronoun), how to support the colleague, how to deal with questions that may come from outside the team without breaching confidentiality.

- Use of facilities a trans person should be free to select the facilities appropriate to the gender in which they present. For example, when a trans person starts to live in their acquired gender on a full-time basis, they should be afforded the right to use the facilities appropriate to the acquired gender. We recognise that an employee may present in the workplace as non-binary and our buildings increasingly have gender neutral facilities which are available to anyone who wants to use them. A trans employee will not be forced to use gender neutral facilities.
- **Time off from work** there may be absences from work for medical reasons or other appointments associated with the transition process please refer to the <u>Time Off policy</u> for further guidance.
- Short term adjustment of duties this may be appropriate in some cases.
 This can only be with agreement between the employee and the manager.
- Communication with customers/ service users the need for this will vary depending on the role of the employee. The manager should discuss with the employee how best to communicate the information to our customers and service users.
- Dress all employees, including trans and non-binary employees, are encouraged to wear the Authority's uniform options or dress that they feel most comfortable in regardless of whether they are transitioning or not. Where the transitioning process includes changes to appearance, an employee will decide when it is appropriate to start presenting themselves in clothing, they deem appropriate. As part of the transitioning at work process the manager may need to discuss with the employee their needs and preferences at this time particularly where uniform is worn as part of the role and a replacement required. Gender neutral uniform options should be available to all staff.
- Respecting and trying to accommodate requests for anonymity if it is wanted. Transitioning can be a difficult process and trans colleagues may not want any attention, The employee can discuss temporary alternative working arrangements with their manager and consider what options might be available to suit both the needs of the service and support for the employee.
- Members of the Local Government Pension Scheme should refer to the <u>Dyfed Pension Fund</u> website for information relating to the effects on membership.



• **Members of Teachers' Pensions** - should refer to the <u>Teachers' Pensions</u> website.

9.0 During and post transitioning

Managers may need to take their lead from the trans employee in relation to the frequency and type of support that is provided during and after transition. There are some general points that should be considered.

Once someone has transitioned, some people may consider this part of their history that others do not need to know about. In such cases, they will simply describe themselves as a man or a woman, and so should the rest of our organisation.

- Pronouns are the words we use to refer to people's gender in conversation, e.g., 'he' or 'she'. Some people may prefer others to refer to them in gender neutral language and use pronouns such as they/their and ze/zir.
- A trans employee can expect to be referred to by their preferred pronoun be that gender specific or gender neutral.
- We recognise that unintentional mistakes may occur therefore all employees should be reassured that where they accidentally misgender a trans employee a simple apology and correction is the best resolution in these circumstances. Where deliberate, persistent or malicious misgendering occurs managers should refer to the Behaviour Standards in the Workplace Guidance.

10.0 References

When asked for a reference for a trans person, the usual principles of fairness and accuracy apply. Please refer to our <u>Reference Guidance</u> for further information.

11.0 Maintaining contact and support

At some point, the employee may no longer want or need regular contact or specific support from their manager in relation to their transition. Communications will revert to the usual management interventions. It is important that managers do not make any assumptions about this and should agree when employer support around the transition is complete. Some employees may want a longer period of support and may request different support at different times of their transition, such as wellbeing support. Managers should be aware that sometimes transition results in personal or



family relationships breaking down temporarily or permanently and the workplace can offer a place of stability during difficult times.

12.0 Recognising Bullying and harassment

Any instances of bullying or harassment will be treated with the same degree of seriousness as other instances of bullying or harassment within our organisation. Managers should be aware that certain behaviour, e.g., excluding people from distribution lists or persistent use of the wrong pronoun (she, he, they) can be very undermining and must be identified and addressed. Never let natural curiosity about trans identities override sensitivity and respect.

To prevent bullying and harassment of trans staff, our organisation needs to recognise it as a specific form of bullying. As a manager it is important that you can recognise the signs of trans bullying and harassment so that you can act. This may include:

- making trans-phobic insults and threats
- x making unnecessary and degrading references to an individual's gender identity
- engaging in banter or making jokes which are degrading to a person's gender identity or perceived gender identity.
- x outing an individual as trans without their permission
- x ignoring or excluding a colleague because they are trans.
- spreading rumours or gossip
- **X** asking intrusive questions about their private life
- making assumptions and judgements about a colleague based on their gender identity.
- x using religious belief to justify anti-trans bullying and harassment.

If you witness or are told about any of this happening in your service or team, you have a responsibility as a manager to act. In extreme cases, this form of harassment could be classed as a 'Hate Crime'. Research suggests that although a high proportion of trans individuals have suffered from some form of hate crime, it is not often reported to the police.

An employee may wish to talk to you as their manager about such incidents. The effects on the employee can impact heavily on the organisation and on their ability to work. Your support could play a vital role in making sure this is reported and addressed.

13.0 Other policies

Our Equality and Diversity policy specifically includes gender re-assignment, gender identity and gender expression as one of the grounds or protected characteristics to



which the policy applies. By failing to comply with this policy, employees are likely to be breaching the Equality Act 2010, if they treat our trans colleagues less favourably, or bully, harass or victimise a trans colleague/employee. The policy further outlines the kind of treatment that employees and customers should expect to receive.

As well as the Equality and Diversity Policy, this guidance is supported by a number of other policies and procedures including:

- Employee Code of Conduct;
- Behavioural Standards in the Workplace guidance;
- Grievance Policy;
- Disciplinary Policy;
- Recruitment and Selection Policy;
- Time Off Policy
- Training and development resources
- People Management Advisors
 - Human Resources
 - ❖ Occupational Health
 - Health & Safety
 - Learning and Development

For more information, look on the Council's website or contact the People Management Team. There are a number of LGBT Groups and Help lines that are readily accessible via the internet or through local LGBT services and some of these are detailed below.

14. Useful contacts and resources

- Human Resources Team, Tel: 01267 246129
- Learning and Development Team, Tel: 01267 246085
- Occupational Health, Safety & Wellbeing Team, Tel: 01267 246060
- Stonewall Cymru (Lesbian, Gay, Bi and Trans Charity)
 www.stonewallcymru.org.uk or Tel: 08000 50 20 20 or Email: info@stonewall.org.uk
- LGBT Cymru Helpline & Counselling Service, Tel: 0800 980 4021 or Email: info@lgbtcymru.org.uk

15.0 Ensuring equality of opportunity

Managers must adopt a positive, open and fair approach and ensure the Authority's Trans guidance is adhered to and applied consistently to all irrespective of race, colour, nationality, ethnic or national origins, language, disability, religion and belief



or non-belief, age, sex, gender reassignment, gender identity and gender expression, sexual orientation, maternity, parental, marital or civil partnership status.

If you have any equality and diversity concerns in relation to the application of this policy and procedure, please contact a member of the HR Team who will, if necessary, ensure the policy/procedure is reviewed accordingly.

If you require this publication in an alternative format, please contact People Management by email

CHR@carmarthenshire.gov.uk

This guide was developed by the HR Team with advice from Stonewall Cymru



Appendix 1 - Glossary of Terms

Bisexual or Bi – refers to a person who has an emotional, romantic and/or sexual orientation towards more than one gender.

Deadnaming – is calling someone by their birth name after they have changed their name. This term is often associated with trans people who have changed their name as part of their transition.

Gay – refers to a man who has an emotional romantic and/or sexual orientation towards men. Also, a generic term for lesbian and gay sexuality – some women define themselves as gay rather than lesbian.

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

Gender dysphoria – used to describe when a person experiences discomfort or distress because there is a mismatch between their sex assigned at birth and their gender identity. This is also the clinical diagnosis for someone who doesn't feel comfortable with the gender they were assigned at birth.

Gender identity – a person's internal sense of their own gender, whether male, female or something else, which may or may not correspond to the sex assigned at birth.

Gender reassignment – another way of describing a person's transition. To undergo gender reassignment usually means to undergo some sort of medical intervention, but it can also mean changing names, pronouns, dressing differently and living in their self-identified gender. Gender reassignment is a characteristic that is protected 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, and you currently must be over 18 to apply. You do not need a GRC to change your gender markers at work or to legally change your gender on other documents such as your passport.

Lesbian – refers to a woman who has an emotional, romantic and/or sexual orientation towards women.

LGBT – the acronym for lesbian, gay, bi and trans.

Non-binary – an umbrella term for a person who does not identify as only male or female, or who may identify as both.

Pansexual – refers to a person who is not limited in sexual choice regarding biological sex, gender or gender identity.

Pronoun – words we use to refer to people's gender in conversation – for example 'he' or 'she'. Some people may prefer others to refer to them in gender neutral language and use pronouns such as they/their and ze/zir.



Trans – an umbrella term to describe people whose gender is not the same as, or does not sit comfortably with, the sex they were assigned at birth. Trans people may describe themselves using one or more of a wide variety of terms, including (but not limited to) Transgender. Transsexual, Gender-queer (GQ), Gender-fluid, Non-binary, Gender-variant, Cross-dresser, Genderless, Agender, Non-gender, Third gender, Two-spirit, Bi-gender, Trans man, Trans woman, Trans masculine, Trans feminine and Neutrois.

Transitioning – the steps a trans person may take to live in the gender with which they identify. Each person's transition will involve different things. For some this involves medical intervention, such as hormone therapy and surgeries, but not all trans people want or are able to have this. Transitioning also might involve things such as telling friends, dressing differently and changing official documents.



Appendix 2 - Useful sources of information and advice

http://genderedintelligence.co.uk Gendered Intelligence work predominantly with the transgender community and those who impact on transgender lives. They particularly specialise in supporting young transgender people aged 11-25.

<u>www.gires.org.uk</u> Gender Identity Research and Education Society provides information for Trans people, their families and the professionals who care for them.

<u>www.depend.org.uk</u> Offering free, confidential advice, information and support to all family members, spouses, partners and friends of transsexual people in the UK.

<u>www.gendertrust.org.uk</u> The Gender Trust supports all those affected by gender identity issues.

www.equalityhumanrights.com The Equality and Human Rights Commission seeks to identify and tackle areas where there is still unfair discrimination or where human rights are not being respected and to act as a catalyst for change. The EHRC also provide statutory guidance on the Equality Act for employers, which can be found here: http://www.equalityhumanrights.com/private-and-public-sector-guidance www.transgenderwales.bravepages.com Supports transgendered people in Wales.

Government Equalities Office (GEO)

GEO is responsible for equality strategy and legislation across government. www.gov.uk/geo

Department for Business, Innovation and Skills (BIS)

BIS is the department for economic growth. The department invests in skills and education to promote trade, boost innovation and help people to start and grow a business. BIS also protects consumers and reduces the impact of regulation. www.gov.uk/bis

Equality and Advisory Support Service (EASS)

EASS has a helpline that advises and assists individuals on issues relating to equality and human rights, across England, Scotland and Wales. www.equalityadvisoryservice.com/

British Chambers of Commerce (BCC)

BCC is the national voice of local business and serves business members across the UK. The BCC is a voice for the interests of business, delivers services that help business grow, and is the private sector source of advice and support for international trade. http://www.britishchambers.org.uk

Unity LGBT Swansea

Provide a drop-in centre, support, signposting and legal advice. Contact: unity LGBT Swansea, 71 High Street, Swansea, SA1 1LN; phone: 01792 346299; website www.unitygroup.wales

Disclosure and Barring Service

The law requires that you disclose all of your previous names and addresses to the DBS so that they can correctly process your application. The DBS does however



have a process whereby you can disclose your previous gender/name to the DBS only and not reveal this on the CBS application form.

This is known as the 'Sensitive Applications Process'. This process ensures that your information is handled sensitively and securely by the DBS and not revealed to the person who asked you to apply.

For further information

Email: sensitive@dbs.gsi.gov.uk or telephone 0151 676 1452



Appendix 3 - Action plan template

Managers directory' checklist to use in conjunction with an employee who is transitioning.

Have you read the Transgender guidance?

Have you sought support from HR?	
For reasons of confidentiality, agree with the employee what information should be shared with the HR Advisor	
Have you outlined the support available to the employee through:	
 Occupational Health, Safety and Wellbeing Services? Time Off Work? 	
Reasonable adjustments?	
Have you spoken to the employee to gain an understanding of any concerns they may have regarding the transition process and any perceived impact on the workplace and their colleagues?	
Have you agreed a planned approach, - led by the employee covering:	
updating records	
agreeing any workplace adjustments	
planning and agreeing leave for transitioning	
agreeing approach to inform colleagues.	
agreeing what facilities will be used.	
agreeing first day arrangements?	
Update records	
Have you agreed with the employee who will update various records?	
Have you agreed the date that personal records (title, first name, family name and gender) should be updated? The timing of record changes should be synchronised as far as possible.	
If you are updating records, have you agreed with the employee what personal information should be shared with colleagues?	
Have you or the employee updated the following records?	
 HR and payroll – pre-existing staff number should be retained. Email address – a new account is recommended. 	



IT systems	
Circulation lists	
Staff directories	
Security pass	
 Pension record 	
 Rotas 	
Name badges	
Telephone directory	
Records should be updated so that all current and future references pick up the employee's new details and records pre-dating the transition are deleted as far as possible.	
Have you identified departmental contacts in HR, payroll and IT in case of glitches? Your HR Advisor will be able to help identify these contacts.	
Workplace adjustments	
Have you agreed any temporary or longer- term workplace adjustments?	
For example	
• time off	
change in role or duties.	
 risk assessment following surgery. 	
 flexible working following facial hair treatment 	
Leave for transitioning	
Have you agreed the expected time off required, to attend appointments or undertake treatments relating to gender reassignment?	
Use of facilities	
Have you agreed when the employee will start to use facilities, such as toilets and changing rooms, appropriate to their gender? This will usually be on the first day of transition. If colleagues object to sharing facilities with employees going through transition, the situation should be dealt with through communication, discussion and education. If colleagues persist with unreasonable objections, you may need to manage the situation via disciplinary procedures.	



Informing colleagues	
Have you agreed with the employee how and when colleagues will be told about the transition? This could be done on a one-to-one basis, in groups or by email.	
Have you or the employee informed colleagues?	
 what is going to happen and when? what their responsibilities are? how can they help and support the employee? of the facts but not graphic detail? 	
If the employee has decided to inform colleagues themselves,	
have they told you when this will happen so you can provide support as required?	
First day arrangements	
Some employees will prefer to take a short break to prepare to return to work in the gender. Have you arranged for:	
 a friend to meet the employee from reception and accompany him/her back to the workplace? 	
an appointment for a new security pass?	
 a one-to-one meeting with the employee to discuss on- going support? 	
 new uniform to be provided as appropriate? 	
	<u> </u>
Handover to new manager	
Have you spoken to the employee to agree what information should be shared with the new manager?	
Have you set up a meeting for you, the employee and the new manager to discuss what has happened to date and what is planned in the future? Previous special leave / sickness absence should be covered to ensure they are accounted for accurately.	

