



**North Warwickshire
& Hinckley College**

Part of North Warwickshire and South Leicestershire College

Transgender Policy 2018

North Warwickshire and South Leicestershire
College

Director of Student Experience and Support

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Transgender Policy 2018

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Transgender Policy 2018

1. Introduction

- 1.1 The purpose of this Policy is to explain the College's good practice in the consideration of transgender people, in order to minimise the distress and disruption to all students and staff.
- 1.2 This Policy also supports the Corporation to meet the requirements of the Equality Act 2010, which prescribes gender reassignment as one of the Acts nine protected characteristics. An individual falling under any of the protected characteristics is protected against discrimination.
- 1.3 This Policy aims to:
 - i. ensure staff and students deal with transgender matters inclusively, sensitively and lawfully;
 - ii. provide an inclusive environment for any transgender student;
 - iii. ensure all staff and students are aware of, and educated about, transgender issues.

2. Definitions

- 2.1 **Gender:** is a spectrum, which is not limited to male or female and can span anywhere between these two binary points. A transgender person feels that their external appearance (sex) does not match up with the way they feel internally about their gender identity. A female to male (FTM, or trans-male) person will have been assigned as female at birth, but will identify their gender as male. A male to female (MTF, or trans-female) person will have been assigned as male at birth, but will identify their gender as female.
- 2.2 **Transgender:** is a term used to describe people who identify with the opposite gender to which they were assigned at birth; however it is also an umbrella term which can include people who do not feel exclusively male or female (non-binary or genderqueer). Gender can be fluid, and some individuals who do not relate to their assigned gender may never fully transition in to the opposite gender, choosing instead to use alternative pronouns. For example, someone who is gender fluid but chooses to keep their sex as male, may prefer to be known by 'she / her / hers' pronouns. Others may prefer to be known by 'they / them / theirs'.
- 2.3 **Gender dysphoria:** is a clinical condition that can present from a very early age and can only be diagnosed by a medical expert. A person diagnosed with gender dysphoria may require treatment, e.g. hormone blockers to delay puberty, before being prescribed hormones of their desired gender. A transgender person may live their life without being, or needing to be diagnosed as having gender dysphoria.

Diagnosis and treatment for young people is available from specialist Gender Identity Clinics (GICs) which are available in many locations across the UK. It must be understood that some people with gender dysphoria may not want any treatment. Some may choose to be known by a different name or to wear different clothes; however, most or all young transgender people (and their families) will need some expert support as they grow up and develop.
- 2.4 A full glossary of related terms is included as Appendix 1

3. Related Policies, Procedures and Documents

- 3.1 Attendance and Punctuality Policy
- 3.2 Data Protection Policy
- 3.3 Equality Scheme
- 3.4 Health and Safety Policy

- 3.5 Safeguarding and Protecting Children and Vulnerable Adults Policy
- 3.6 Student Bullying and Harassment Policy
- 3.7 Other policies and documents may be identified from time to time as circumstances change and may be added to this list.

4. Rationale

- 4.1 The Equality Act 2010 ensures legal protection against discrimination in employment, education, the provision of services and the delivery of public functions, in relation to the nine protected characteristics defined in the Act; one of which is gender reassignment.
- 4.2 The Act states that an educational establishment must not discriminate against a student because of their transgender status. Discrimination can be direct or indirect. Indirect discrimination occurs when a provision, criterion or practice applies to everyone but puts a person with a particular protected characteristic at a particular disadvantage, and it cannot be justified as a proportionate means of meeting a legitimate aim. An example might be an inflexible dress code which offers no “unisex” options such as trousers for girls, and which would therefore create a particular difficulty for a FTM student.

5. Core Principles

- 5.1 The College will create an inclusive trans-friendly culture, workplace and learning environment, free from discrimination, harassment or victimisation, where all transgender people are treated with dignity and respect in the gender in which they choose to present themselves, irrespective of their legal sex.
- 5.2 The College will give support and understanding to those individuals who wish to take, or have taken steps, to present themselves in a gender different to the gender assigned at birth. The College recognises that the period of transition can be very complex and difficult for an individual, and would wish to act in a supportive and sensitive way to ease any transition period.
- 5.3 No prospective or actual student or member of staff will be treated less favourably than any other, whether before, during or after their study or employment at the College, on the grounds of gender identity or reassignment.

6. Equality Analysis

- 6.1 By virtue of the provisions of the Equality Act 2010, the College has a duty to have due regard to the need to:
 - i. eliminate unlawful discrimination, harassment and victimisation and other prohibited conduct;
 - ii. advance equality of opportunity between people of different groups;
 - iii. foster good relations between people from different groups.
- 6.2 In implementing this Policy and associated procedures, the College will actively take these aims into account as part of its decision making process and will demonstrate how this has been undertaken.
- 6.3 Where necessary a full equality impact assessment will be undertaken.

7. Implementation, Monitoring and Review

- 7.1 **Attendance:** the College will make reasonable adjustments to accommodate absence requests for treatment and external services in line with its Absence Policy.
- 7.2 **Transphobia and bullying:** the College has a robust Harassment and Anti-bullying Policy. In line with this Policy, transphobic incidents will be recorded and dealt with in the same manner as other incidents that are motivated by prejudice, e.g. racist or homophobic incidents. Such incidents could potentially constitute the legal definition of a Hate Crime, an incident in which the victim is attacked based on someone's prejudice towards them due to their possession of a protected characteristic
- 7.3 **Training:** in order to ensure that staff have the skills to deal with transgender issues, the College will deliver training sessions on the topic of transgender issues.
- 7.4 **Tutorials:** the issues connected to transgender will be discussed by all study programme students during their tutorial programme.
- 7.5 **Work Experience:** the Equality Act 2010 encompasses every environment that students will be working in, therefore all placement providers should be aware of their duties and responsibilities. Where the College is considering allowing a transgender young person to attend a work experience placement, the College will complete a suitable assessment on the potential placement to establish if there is any risk to the young transgender person, taking account of the young transgender person's right to privacy. As a general principle, personal information on the young person must not be shared.
- 7.6 **Apprenticeships:** transgender status is a protected characteristic under the Equality Act (2010) therefore any apprentice is afforded the same employment rights and protections as a person in full time work. The College will fully support any apprentice in exercising these rights. In addition, apprentices are entitled to access any of the College support mechanisms which are available to full time students. The College will work with apprentices to make sure they are able to take advantage of this support.
- 7.7 **Changing / Toilet Facilities:** provision is made at all College sites for non-gendered toilets. Transgender students will be able to use these facilities which have been labelled sensitively and appropriately.
- 7.8 **Name Changing and Exam Certification:** if a transgender student wishes to have their preferred name recognised on college systems, this will be supported and will feed on to letters home, report cycles, bus pass information etc. Furthermore, the change of name and associated gender identity will be respected and accommodated by the college. It is a real indicator that the transgender student is taking steps to, or proposing to move towards a gender they feel they wish to live in.

Technically, students can be entered under any name with an examination board; however, once a result is accredited it will need to be linked with a Unique Learner Number (ULN). ULNs are only linked with legal, not preferred names. It is possible for examination certificates to be issued in the preferred name, but any young person finding themselves in this position should discuss this issue with the College.

It is possible for any documentation to be changed to reflect the chosen name of the young person. Changing the gender recorded on a birth certificate is not possible until a Gender Recognition Certificate has been issued. In order to change a name on other official documents such as a passport, it may be necessary for evidence of change of name to be produced. There are two ways in which this can be done: by deed poll and by statutory declaration. The Citizens Advice Bureau and other transgender support organisations will have more information on this subject. A person under 16 years of age cannot change their name legally without the consent of a parent.

- 7.9 **Vaccinations:** the College will allow any gender specific vaccinations to be carried out at a General Practitioner's surgery in order to eliminate any anxiety issues.
- 7.10 **Trips:** learning about different cultures and lives and taking part in activities may lead to overnight stays on trips. Issues may arise for both young transgender students and other students but this must not mean transgender students cannot be included on the visit.

Any sleeping arrangements will be considered before a visit is undertaken; it is possible that the transgender student would prefer to have a separate room. Each individual case and visit will be

considered separately and in depth discussions will happen well in advance, with all appropriate bodies, linked to the accommodation available.

- 7.11 This Policy will be reviewed annually, or as otherwise directed by the Principal, College policy or legislative changes.

Appendix 1

Glossary of Terms

AFAB: assigned female at birth.

Agender: not relating to any particular gender.

AMAB: assigned male at birth.

Binary/Non-binary: refers to the gender spectrum: Binary refers to the two fixed ends of the spectrum – male and female; non-binary can be used to describe someone who identifies not solely with either of these genders, but somewhere in between.

Binding: a FTM adolescent that is developing breasts may strap down their chest so that it is less obvious. This can be hot, uncomfortable and restrictive but very important to their psychological and emotional wellbeing. It might make certain PE lessons difficult for them to participate in and could sometimes lead to breathing difficulties, skeletal problems and fainting.

Cisgender – Someone who identifies completely with their assigned gender at birth (which also corresponds to their sex).

FTM: Female to male, a person that was identified as Female at birth but came to feel that their true gender is actually male.

Gender: the way that a person feels about themselves in relation to their physical and mental self; the basis of their identifying as male, or female, or neither, or either, or somewhere else on the spectrum.

Gender Dysphoria: the medical condition that describes the symptoms of being transgender.

Gender Fluid: someone who identifies as gender fluid will identify with a different gender on a varying basis. They may feel more feminine some days and more masculine on other days; or feel that neither male nor female describes them fully.

Gender Identity: the gender that a person truly feels they are inside.

Gender Identity Disorder: a medical term describing being transgender, this tends not to be used owing to the subtext around the word 'disorder'.

Gender Recognition Certificate: an official document presented by a Gender Recognition Panel that enables all official documents and records (including birth certificate) to be amended to the true gender of the individual thereby providing full legal recognition.

Gender Spectrum: the continuum between the two binary points of male or female. This is vast and many people identify at different points.

Hormone Suppressors / Puberty Blockers: drugs that are given in order to delay that process of puberty. These can be prescribed before a child is old enough to start taking hormones such as oestrogen or testosterone.

MTF: Male to female, a person that was identified as male at birth but came to feel that their true gender is actually female.

Packing: a FTM person may wear a prosthetic item in their pants that will give a bulge in their trousers so as to appear more male.

Sex: the way a person's body appears, sometimes wrongly, to indicate their gender.

Transgender: a person that feels the assigned gender and sex at birth conflicts with their true gender.

Trans Female: someone who was assigned male at birth but identifies as female.

Trans Feminine: a person who was assigned male at birth but identifies with the more feminine side of the spectrum.

Trans Male: someone who was assigned female at birth but identifies as male.

Trans Masculine: a person who was assigned female at birth but identifies with the more masculine side of the spectrum.

Transition: the process of changing gender. This may be by having surgery to change sex organs, or by taking hormones.

Tucking: AMTF person may tuck (and sometimes tape) their genitals between their legs so that it does not show at the front.

Appendix 2

Relevant Legislation

Data Protection Act 1998 (UK)

Information about a person's transgender status is considered 'sensitive personal data' and is subject to tighter controls than other personal data. Explicit consent is required before it can be processed.

- i. Personal data must be looked after properly following the eight data protection principles, which include ensuring personal data is accurate, secure and processed fairly and lawfully.
- ii. Failure to change a person's title, name and gender when requested could lead to the following offences under the Act.
- iii. Disclosure of personal information that is used, held or disclosed unfairly, or without proper security.
- iv. Failure to ensure personal information is accurate and up-to-date.
- v. Processing of data likely to cause distress to the individual.

The Human Rights Act 1998

The following Articles from The Human Rights Act 1998 support the rights and needs of transgender people to live their lives in their true gender.

- i. Article 8: right to respect private life and family life.
- ii. Article 10: freedom of expression.
- iii. Article 14: the prohibition of discrimination.

The Gender Recognition Act 2004

The Gender Recognition Act 2004 is mainly concerned with the process by which a person can get a Gender Recognition Certificate, and correct their original birth certificate to match their true gender. This can only occur after a person reaches 18 years of age but is something that many younger people may aspire to.

Equality Act 2010

The Equality Act 2010 ensures legal protection against discrimination, harassment and victimisation (direct or indirect) for everyone under the nine protected characteristics defined in the Act, one of which is Gender Reassignment (also known as transgender).

Part 6 of the Equality Act 2010 makes it clear that the Act specifically refers to education and young people.

The Equality Act 2010 (2:1:7) states that:

"A person has the protected characteristic of gender reassignment if the person is proposing to undergo, is undergoing or has undergone a process (or part of a process) for the purpose of reassigning the person's sex by changing physiological or other attributes of sex."

The Act applies to employment, education and a range of other areas where discrimination may take place. In order to be protected under the Act, a student will not necessarily have to be undergoing a medical procedure to change their sex, but they must be taking steps to live in the opposite gender, or be proposing to do so.

Sex Discrimination (Gender Reassignment) Regulations 1999

Individuals who intend to undergo, are undergoing or have undergone gender reassignment are protected from discrimination in work, school and vocational training (including higher education study).

Less favourable treatment relating to absences arising from gender reassignment is unlawful if:

- i. the treatment is less favourable than if it had been due to sickness or injury
- ii. the treatment is less favourable than if it had been due to some other cause and, having regard to the circumstances of the case, it is reasonable not to be treated less favourably.

Less favourable treatment includes the arrangements relating to terms and conditions or arrangements under which employment, education or vocational training is offered.