

Trans Equality Policy

1. Introduction

- 1.1 The Council is committed to equality of opportunity for trans people throughout recruitment and employment, including supporting trans employees through any transitioning process.
- 1.2 The Council will not tolerate discrimination, victimisation or harassment on the basis of a person's gender identity, gender expression or trans status. Lancaster City Council seeks to provide a supportive environment for trans staff
- 1.3 This document should be read in conjunction with the Council's Equality and Diversity Policy, available on Elsie or via line managers (where individuals do not have access to the intranet).
- 1.4 The purpose of this document is to assist managers and trans employees with practical information on workplace support.

2. Definitions

- 2.1 **'Transgender'** or **'Trans'** describes people whose identity differs from their sex assigned at birth. They are umbrella terms covering people who:
 - Are intending to undergo, are undergoing, or have undergone gender reassignment at any stage;
 - Identify as having a gender different from that which they were assigned at birth and are planning or have had medical interventions such as hormones or surgery;
 - Identify as having a gender different from that which they were assigned at birth, but who are not planning any medical intervention; and/or,
 - Are non-binary – that is they are not solely male or female. They may define themselves as both, neither or something entirely different. They may or may not have medical interventions to align their body with their non-binary gender identity.
- 2.2 **'Transitioning'** is the process undertaken by a trans person in order to bring their gender presentation into alignment with their gender identity. This often involves dressing differently, using a different name and pronoun (e.g. she, he or they) and changing official documentation. It may involve various types of medical or surgical treatment, although this is not the case for all trans people.

Lancaster City Council recognises that there is no right or wrong way to transition and is committed to supporting each individual in their decisions. For more relevant terminology please see Appendix 1.

3. Legal Framework

A person does not have to hold a gender recognition certificate or be at any particular stage of transition in order to be treated with dignity and respect. The current legislation and laws in place to protect trans people from discrimination are:

3.1 The Equality Act 2010

The Equality Act 2010 protects people on the basis of gender reassignment from direct and indirect discrimination and harassment. This included discrimination by association and discrimination against people perceived to have the protected characteristic of gender reassignment.

The act also places a proactive duty on public organisations to promote equality of opportunity, foster good relations and eliminate unlawful discrimination between people who have the protected characteristic of gender reassignment and people who do not.

3.2 Gender Recognition Act 2004

The Gender Recognition Act 2004 provides trans people with the opportunity to obtain legal recognition of their acquired gender by being issued with a Gender Recognition Certificate (GRC).

Anyone with a GRC will be legally recognised 'for all purposes' as their acquired gender. When someone has a GRC any disclosure without consent of information about that person's gender history, which has been obtained in an official capacity, is an offence.

Employment rights do not depend on whether a person has a Gender Recognition Certificate. Employers should not ask for a person's GRC and it should never be a pre-condition for transitioning at work. To make an application for a GRC a person needs to show that they have been living and working in that gender for at least two years.

3.3 The Data Protection Act 2018

This act controls how personal information can be processed and used. Trans history is treated as 'sensitive information' under the Data Protection Act.

4. Employees who are transitioning

4.1 If an employee states that they are intending to transition while they are working at the Council, their line manager in conjunction with other appropriate colleagues, should aim to make this process as smooth as possible. Managers should be aware that it can be an extremely difficult step for someone to approach their manager about transitioning.

The Council is committed to reassuring all staff that they will be supported and respected during the transition.

4.2 Communicating the transition with colleagues

The manager and the employee will discuss the individual's preferences in relating to informing others, including other managers, colleagues, service users and other

relevant contacts about the transition. They will agree whether the employee will do this, whether they would prefer the managers or a work colleague to do this, or a mixture of these options. They will also obtain express written agreement from the employee about when and how this will happen, including the details of the message and who it will be shared with. Levels of disclosure may vary in detail for different types of contacts and will be agreed in advance.

4.3 Uniforms and dress codes

If a uniform is required for the employee's role, managers will ensure that the trans employee has access to the uniform that is most appropriate at all times. Some trans employees may need access to both the male and female uniforms. Managers will be flexible, and will support the preferences of the trans person wherever possible. Trans staff have the right to comply with any dress codes in a way that reflects their gender identity and gender expression.

4.4 Changing facilities, toilets and other single sex facilities

Trans people are entitled to use single sex facilities in accordance with their gender. For non-binary people this might mean using gender-neutral or accessible facilities, or using a combination of different facilities. However, trans people will never be required to use accessible toilets unless they wish to do so.

4.5 Updating records

Electronic records will be updated in a timely manner to co-incide with the date on which the workplace transition begins. Care will be taken to ensure that records do not link back to the former name – this may entail creating a whole new email address rather than simply changing the name on an existing one, for instance. The manager and the employee will work together to ensure that nothing is missed. New ID badges with the correct name and a new photograph will be issued.

Paper records will be updated where possible. Those that cannot be updated, for instance paper copies of references relating to the employees recruitment, will be stored securely by the HR Team.

4.6 Attendance at appointments

Leave will be given in order for employees to be attend transition related appointments.

Paid leave will not be granted. The majority of staff either benefit from the Flexible Working Hours Scheme or work a compressed week. Additionally, many staff work on a part time basis. All of these working patterns allow employees a great deal of discretion in arranging appointments at a time that will not impact upon their work duties. Additional paid leave therefore will not be granted.

If staff are unable to make appointments in their own time or do not have the benefit of flexi time, in agreement with the line manager, it may be possible for staff to work back the hours within a set time period or to take unpaid leave.

Managers should ensure that, where staff have a transition related appointment, they are flexible with such requests, e.g., permitting annual leave to be taken in hours.

It is acknowledged that employees may need to travel a long distance for appointments, and these may be given at short notice.

4.7 Absence due to Gender Reassignment Surgery and treatments

Section 16 of the Equality Act 2010 states that an employer 'must not treat a person absent because of gender reassignment less favourably than they would treat absence due to sickness or injury or absence for some other reason if it is not reasonable to do so.'

The procedure for staff who are absent due to Gender Reassignment will therefore mirror the Council's Sickness Absence Management Procedure, ensuring that contact is maintained throughout the absence, support is given and length of absence is monitored appropriately.

4.8 Absence Monitoring

The Bradford factor is used by the Council to monitor absences and absence levels. Absences due to gender reassignment surgery will be counted towards the Bradford factor scores as is the case with those staff who are also covered by the Equality Act in relation to disability.

4.9 Meetings and Reviews

In line with the absence procedure, a meeting will take place upon the employees return from gender reassignment surgery. This meeting will focus however on the employee's wellbeing and relevant adjustments that may be temporarily required. This may include consideration of temporary redeployment to another role should this be operationally feasible. A formal review will not take place if this is the only absence which has occurred within the 12 month rolling period.

If a formal review is triggered within the same 12 month period due to absence for other reasons either connected with or unconnected to the initial gender reassignment surgery, managers should give due regard to the non-recurring nature of the gender reassignment surgery itself when setting the target for the future.

4.10 Absence Recording

For absence recording purposes Gender Reassignment Surgery and associated procedures will normally be recorded as 'general surgery' and noted as such on the staff HR system Resource Link Aurora by management.

It should be agreed prior to absence if and how the period of absence for the re-assignment surgery will be communicated to colleagues and customers as referred to in section 3.3 and 3.9.

Medical Certificates that are produced due to absence should be sent to Human Resources to be stored confidentially.

4.11 Transition Plan

The trans employee and their manager might find it helpful to put in place an action plan, or to agree a checklist to clarify the actions that will be taken over the course of the employee's transition and any absence from work, the dates by which these will be completed, and the person who will take responsibility.

5. Harassment, Bullying and Victimisation

- 5.1 Lancaster City Council has a zero tolerance approach towards discrimination and harassment based on gender identity, gender expression or gender history. Inappropriate behaviour or language may constitute harassment, bullying or victimisation. The Equality Act 2010 gives protection against this.
- 5.2 Managers are responsible for taking timely action where misconduct occurs on the grounds of an employee's gender identity in line with the council's Dignity at Work Policy and procedures. Employees are asked to ensure that any issues are raised with management immediately in order for the relevant action to be taken.

6. Recruitment

People who have already transitioned have no obligation to disclose their gender history. Job applicants and interviewees will not be asked for their gender identity during the recruitment process. It is not normally a relevant criterion in selection. Neither is there any obligation for a trans person to disclose this as a condition of employment.

If a person chooses not to disclose, this is not in itself a reason for not offering employment and a non-disclosure or subsequent disclosure is not grounds for dismissal. Recruiting managers who become aware of a trans applicant will maintain full confidentiality in relation to this.

6.1 References

Where a reference request is received for an existing employee who has transitioned. Lancaster City Council will respect the employee's privacy and only respond using the employee's correct name and gender in the reference, subject to consultation with the employee.

Disclosure of sickness absence will not include time taken off for medical appointments related to transition. This information is strictly confidential and managers must be very careful of any record keeping in this. Sickness absence will only be referred to as 'general surgery'

When Lancaster City Council requests a reference, we will make the request using the prospective employee's correct name and gender since transitioning. We will not mention previous names or gender identity, unless specifically asked to do so by the trans person.

7. Support for employees with a family member who is transitioning

If an employee is supporting a family member who is transitioning, they may need to take time off to attend appointments and treatment or give assistance following surgical procedures. Some of these may be at short notice and may involve travelling short distances.

Managers will be as flexible as possible to accommodate this in line with section 4.7 above.

8. Promotion of Trans Equality

As well as ensuring that trans staff are fully supported the Council will demonstrate our commitment to trans equality in the following ways:

- Ensure that all equality training courses that are delivered are fully inclusive of trans people including the provision of an e learning module on the Council's Learning Zone on Trans Awareness.
- Include Trans Equality within the Council's equality agenda and objectives
- Investigate all complaints of harassment, victimisation or discrimination on the grounds of gender identity, gender history, trans status or gender expression in line with Council policy.

9. Review

This policy will be reviewed two years after implementation or earlier in the event of further changes in legislation.

Document Control:

Version no.	Effective Date	Reason	Review due
1.0		New policy – Trans Equality Policy	