

## Trans Guidance Supporting trans and non-binary equality in the workplace

Introduction	2
Terminology	2
Legal background	4
<i>Equality Act 2010</i>	4
<i>Public Sector Equality Duty and workforce monitoring</i>	5
<i>Gender Recognition Act 2004</i>	5
Policies	5
<i>Recruitment and references</i>	6
<i>Confidentiality</i>	6
<i>Discrimination and harassment</i>	7
<i>Record-keeping of sensitive information</i>	7
<i>Absences from work during transition</i>	8
<i>Implications for pensions</i>	9
Practicalities	9
<i>Guidance on transitioning</i>	9
<i>Communicating the change to others</i>	11
<i>Use of toilets and changing facilities</i>	11
<i>Pronouns</i>	12
<i>Job role</i>	12
<i>Dress</i>	12
Frequently asked questions	14
Further support	15
<b>APPENDIX 1: Trans Memorandum of Understanding</b>	17

## INTRODUCTION

1. This guidance sets out the commitment of schools / academies to trans and non-binary employees. It brings together information and guidance to assist Headteachers / Principals, trans and non-binary employees, and other employees with practical issues connected to this commitment. This guidance also seeks to provide guidance on the transitioning process.
2. The use of the term 'trans' in this guidance refers to an inclusive umbrella term describing people who present themselves in a gender that differs from the one that they were assigned at birth. This term encompasses binary trans people (trans men and trans women), as well as non-binary / gender non-conforming people and people who cross-dress. All these groups share the protected characteristic of gender reassignment, and they are therefore all protected under the Equality Act 2010.

The school / academy is committed to creating an inclusive workplace, where everyone is valued as an individual and where fairness and respect run through everything we do.

3. The school / academy recognises and values the variety of experience which all employees, including trans employees, bring to the school / academy at all levels and the positive impact that this can have.
4. The school / academy is committed to equality of opportunities for trans people throughout recruitment and employment. This includes supporting trans employees through any transitioning process and ensuring that trans employees are treated with dignity and respect and are not discriminated against or victimised, in line with the equality and diversity and dignity at work policies.
5. It is recognised that terminology is extremely important in creating an inclusive workplace, and that language continues to evolve. The terms trans, non-binary and gender identity have been used in this guidance; however, some individuals may prefer different terminology and their preference should be checked with them.

## TERMINOLOGY

6. Understanding the terminology relating to gender identity is the first step to creating an inclusive workplace. The inappropriate use of language can cause offence and distress to employees and undermine the school's / academy's efforts to support trans employees.

7. It is important to understand that there is a difference between biological sex and gender. Biological sex refers to chromosomal make up, genitalia, hormones etc and as such would be used in reference to the physical anatomy of a person. Gender concerns a person's internal sense of self and how they choose to express themselves.
8. The following are some key terms; however, it should be noted that trans and/or non-binary people may have personal preferences regarding language.
9. **Trans:** An umbrella term describing people who present themselves in a gender that differs from the one that they were assigned at birth. It can encompass trans men and trans women as well as individuals who are non-binary, gender non-conforming, and people who cross-dress. This term should be used as an adjective rather than as a noun, i.e., 'a transgender person' or a 'trans person'. The term should be used instead of the outdated term 'transsexual'.
10. A trans person feels that their gender identity does not match with the gender that was assigned to them at birth. The process of moving permanently to living in another gender is known as *transitioning* or *gender reassignment*. A trans person may or may not undergo hormone therapy and/or surgery to change their body to reflect their gender identity. A person does not need to be undergoing medical supervision, nor do they need to have any intention to undergo treatment, to be protected from discrimination under the Equality Act.
11. **Affirmed gender:** The individual's true gender, as opposed to their gender assigned at birth; their post-transition gender status.
12. **Cisgender, or cis:** Having a gender identity that matches the sex that you were assigned at birth.
13. **Cross-dressing:** Choosing to wear clothes associated with the opposite gender to the one that you were assigned at birth. Many people who cross-dress are comfortable with their birth gender and do not intend to live permanently in the opposite gender. This term should be used instead of the outdated term 'transvestite'.
14. **Gender dysphoria:** Trans people can experience a profound incongruence between the gender they were assigned at birth and their gender identity. This incongruence can lead to substantial distress, sometimes termed gender dysphoria. Gender dysphoria may be described as feeling as though you are "trapped" in a body of the wrong sex.

15. **Gender expression:** How an individual expresses their identity to others, for example through dress, mannerisms, behaviour, voice, and hairstyle.
16. **Genderfluid:** Having a gender that is not fixed over time. A genderfluid person can identify as any gender at any given time.
17. **Gender identity:** The individual's internal sense of their own gender, which may or may not match with the sex assigned at birth.
18. **Gender reassignment:** The process of transitioning from one gender to another. This is a protected characteristic under the Equality Act 2010 and is a broad term to include any person who 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.
19. **Non-binary, or gender non-conforming:** An umbrella term used to describe people whose gender identity is something other than exclusively male or female.
20. **Trans man:** A person who was labelled female at birth but has a male identity.
21. **Trans woman:** A person who was labelled male at birth but has a female identity.

## LEGAL BACKGROUND

### Equality Act 2010

22. Gender reassignment is a protected characteristic under the Equality Act 2010. The Equality Act recognises all trans and non-binary individuals, as well as those who cross-dress, as sharing the protected characteristic of gender reassignment. Any person who proposes to, starts, or has completed a process to change their gender is protected from discrimination under the Equality Act 2010. A person does not need to be undergoing medical supervision to be protected, nor do they need to have any intention to undergo treatment. A person does not need to have a Gender Recognition Certificate (see paragraph 26. below) to be protected. The Act protects applicants and employees from discrimination including harassment and victimisation.

The Equality Act 2010 also protects trans people from being discriminated against because they have been perceived to be a particular sex. This is known as sex discrimination by perception.

## **Public Sector Equality Duty and workforce monitoring**

23. As part of our Public Sector Equality Duty (PSED) (Equality Act 2010), schools / academies monitor and publish workforce data. For this purpose, we collect workforce equality data on all the protected characteristics including gender reassignment. This data is collected to enable the school / academy to assess the impact of our policies and procedures, and to take positive action when required to meet our responsibilities under the public sector equality duty. This information is held confidentially and is only used in the form of anonymous statistics so that people are not identifiable. Schools are therefore advised not to use data on a protected characteristic where there are less than 10 employees with that characteristic to ensure that confidentiality is protected.

## **Gender Recognition Act 2004**

24. A Gender Recognition Certificate (GRC) is provided to an individual who has made a successful application under the Gender Recognition Act 2004 to the Gender Recognition Panel. The individual must show that they have lived in their acquired gender for two or more years and intends to do so permanently. A GRC gives an individual legal recognition in their acquired gender, giving that person the rights and responsibilities belonging to someone of that gender. The individual will be able to obtain a new birth certificate (if their birth was registered in the UK). Applying for a GRC is optional and there is no obligation to do so. A person can still be trans without a GRC, and a trans person can choose to change their name, pronouns (e.g., he/she/they, him/her/they), how they dress, and can undergo treatment without a GRC.
25. There are special laws which protect the privacy of someone who has obtained a GRC. If a person discloses information about the gender history of someone with a GRC without their consent, this may be considered a criminal offence. Information about a person's gender history is 'protected information' and consent from the trans person must be sought before this information is shared with another person (preferably in writing).
26. Trans employees should not be asked about whether they have a GRC or not. Not having a GRC should not be used to disadvantage a trans employee.

## POLICIES

27. All school / academy policies and benefits will be applied fairly and equably to trans staff in line with the school's / academy's equality and diversity policy.

### Recruitment and references

28. Recruitment to the school / academy will be in line with the recruitment policy which provides a fair and equitable process to follow. This aligns to the school's / academy's commitment to equal opportunities as set out in the equality and diversity policy. Applicants will be assessed against the requirements of the post set out in the job specification and selected on merit. Applicants should not be asked about their gender identity. If an individual discloses that they are trans during the process through the requirement for documentation, the school / academy will keep this information confidential.
29. The only circumstances in which gender identity may be considered is where there is a relevant genuine occupational requirement (GOR) for the job. GOR's are only relevant in very limited and specific circumstances. Further information on GOR's is available in the school's / academy's Guide to equality and diversity policy and procedure .
30. During disclosure from the Disclosure and Barring Service (DBS) 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 the school / academy. The contact details for the confidential DBS sensitive applications for trans applicants are 0151 676 1452 or email [sensitive@dbs.gsi.gov.uk](mailto:sensitive@dbs.gsi.gov.uk) for further advice about completing the form. For more information, please refer to the DBS policy and procedure.
31. Where a reference request is received for an existing employee who has transitioned, the school / academy will respect the employee's privacy and only respond using the employee's new name and affirmed gender in the reference.
32. Where a reference is requested by the school / academy, the school / academy will make the request using the candidate's name and gender since transitioning. We will not mention previous names or gender identity, unless specifically asked to do so (in writing) by the trans candidate. It is advisable that the candidate makes contact with the referee to discuss the reference and ensure care is taken around the use of pronouns and names.

## **Confidentiality**

33. Headteachers / Principals and all employees should allow transgender colleagues to take the lead as to whether they wish to discuss their gender identity. It is up to the trans person who they share this information with. Great care should be taken not to disclose a trans employee's gender identity without their consent, as this could place them at risk of discrimination and violate their right to privacy. It may be a criminal offence for a person who has obtained information regarding a person's gender history to disclose that information to another person.
34. Employees are not required to inform the school / academy of their gender history. If an employee chooses to share this information or the school / academy becomes aware of it through documentation, it will keep this information confidential. Any records which the school / academy needs to keep which refer to the employee's past gender e.g., relevant qualifications in a previous name will also be kept confidential and access will be limited to senior members of staff as required. They will be destroyed when the school / academy no longer requires them in line with information retention requirements. The school / academy will not disclose this information to other parties without the consent of the employee.

## **Discrimination and Harassment**

35. The school / academy adopt a zero-tolerance approach towards discrimination and harassment based on gender identity.
36. Inappropriate behaviour or language may constitute discrimination, harassment, bullying or victimisation. Discrimination including harassment, third party harassment and victimisation are covered by the Equality Act 2010. For further information and examples of these forms of dignity at work concerns including action for the Headteacher / Principal in relation to third party harassment, please see the dignity at work policy and equality & diversity policy.
37. The Headteacher / Principal and all managers at the school / academy are responsible for taking timely action where misconduct occurs relating to the treatment of a trans employee. This should be monitored and followed up.

## **Record-keeping of sensitive information**

38. The storage of sensitive data is covered by the Data Protection Act 2018. In accordance with the Data Protection Act, details of previous names, titles and

pronouns on documents can only be seen by a small number of people in the organisation who are authorised to see the information.

39. If an employee is transitioning, they will need to consider with their Headteacher / Principal what information needs to be changed and when this should happen. This may include re-issuing current documents in the new name and express agreement should be reached about who information will be shared with to complete this process.
40. Consideration should also be given to the issue of 'old' records, including personal records, photos, and information on school / academy websites. Old records should only be retained where there is a specific reason and following discussion with the employee. Payroll and National Insurance details may also need to be adjusted.
41. The Headteacher / Principle should obtain written consent from the employee prior to disclosing the employee's change of gender for the purposes of changing any records. Headteachers / Principals can seek further information through a School HR adviser.

## **Absences from work during transition**

42. If an employee is transitioning, they should identify when key dates and events in their transition are likely to occur and how these may impact workload commitments and deadlines. These dates may relate to changes to documentation, physical changes, or role changes. Employees should let their Headteacher / Principle know the expected timescales of any medical procedures and the time off required for treatment and recovery.
43. The Headteacher / Principal should try to accommodate the employee's request for time off. It should be noted that time off for treatment for the purposes of transitioning is protected under the Equality Act 2010 and should be treated no less favourably than time off for other purposes. However, if there is likely to be a significant impact on service delivery the Headteacher / Principal and employee should discuss ways to mitigate this and, where this is not possible if there any alternative arrangements that can be made (for example, postponing the absence period to a later date).
44. If an individual requires time off for surgery and/or treatment as part of the transitioning process, the sickness absence management policy and procedure will apply, and sick pay will be paid in line with the individual's contractual entitlements. Reasonable sickness absence in relation to



transitioning should be recorded and regarded as a short-term reasonable adjustment. It should not be used as part of any absence management process.

45. It is recognised that timescales may change over time in relation to original estimates and that there may be long waiting lists and potential delays to treatment. It is also recognised that the length of time an employee takes to complete their gender reassignment will depend on the individual's circumstances, including the type of any medical treatment they are having. For example, employees may decide not to have any medical intervention at all, they may take breaks from treatment, or have hormone therapy for a number of years before having surgery.

### **Implications for pensions**

46. Entitlement to state pension is based on the sex stated on the birth certificate. Entitlement to the Wiltshire pension scheme and Teachers' Pensions Scheme (TPS) is based on state retirement age. Headteachers / Principals are required to keep information about the early or late retirement of an employee confidential. Where information is required to be processed in relation to pensions, the information will be handled confidentially on a need-to-know basis between those who are required to process the records.

## **PRACTICALITIES**

### **Guidance on transitioning**

47. Trans people can experience a profound incongruence between the gender they were assigned at birth and their gender identity. This incongruence can lead to substantial distress, sometimes termed gender dysphoria.
48. Some trans individuals engage in a process known as transitioning which involves changing the way they express their gender to reflect their gender identity. The process of transition is a personal, social, and sometimes medical or legal process by which a person can alleviate their gender dysphoria by bringing their gender expression in line with their gender identity.
49. Some people may choose to engage in hormone treatments or surgery to bring their bodily configuration closer in line with their gender identity, but many do not, and this is a personal choice.
50. Employees who wish to transition are advised to let the Headteacher / Principal know of their intention to transition so that practical arrangements can be made, and support put in place. The Headteacher / Principal will

arrange a meeting with them, and the checklist/memorandum of understanding (MOU) can be used as a guide for discussions.

51. The employee should let the Headteacher / Principal know their new details and how they wish to be addressed. They should also agree the change of name process and timescale. The employee should provide any documentary evidence they have of their change of name, such as a passport or driving licence. In the absence of these, a signed statement from the individual stating that they are changing their name and confirming the old and new name and title should be enough.
52. Headteachers / Principals and employees should identify what other records need to be changed and make arrangements in relation to these, including identity badges, email accounts, directories, and contact details. It should be decided how the changes can be made, ensuring confidentiality where possible. If changes require the involvement of others, the Headteacher / Principal should seek the consent of the employee.
53. Support from Headteachers / Principals and colleagues during transition can make a big difference. Transitioning can be an extremely difficult time for a trans person, and it may have taken many years to take this step. Trans employees may find it difficult to let Headteachers / Principals and colleagues know about their intentions to transition, and so a positive and supportive approach is really important.
54. The Headteacher / Principal is advised to follow the guidance below when approached by a trans or non-binary employee regarding changes they wish to make to their identity.

#### Key points:

- The Headteacher / Principal should offer the employee the opportunity for a supportive meeting to discuss the transitioning process.
- The transition process should be employee-led wherever possible.
- The Headteacher / Principal arranging the transition meeting is strongly advised to read this guidance and seek support from their School HR adviser. Additional sources of information are set out at the end of this document.
- A template action plan/MOU can be used. The process should be employee led and it is up to the employee how the template is used.
- Any discussions should be held in confidence and any information about the meeting including any notes should be stored confidentially and password protected. Any hard copies should be stored in a locked drawer in a double sealed envelope clearly marked confidential and identifying who is authorised to view the information.

- Confidentiality should be maintained at all times. Great care should be taken not to disclose the gender identity of a trans employee without their consent, or violate their privacy. Information about transition should not be disclosed to any other parties without the employee's express permission.
- The employee may bring a union representative or colleague to meetings for support.
- Headteachers / Principals can seek further advice by contacting their Schools HR adviser who may also attend the meeting if this is requested.
- The MOU should be reviewed regularly (every 3 months or as agreed with the employee) to make sure it is up to date, and welfare needs are met.

## **Communicating the change to others**

55. The Headteacher / Principal and employee should discuss the process of informing others of the changes, i.e., other colleagues, pupils/students, and other contacts. The employee should decide whether they wish to communicate the changes personally, or whether they would prefer the Headteacher / Principal or a work colleague to do this or a mixture of these options. The Headteacher / Principle should also obtain express written agreement from the employee about when and how this should 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 should be agreed in advance. The Headteacher / Principal should assess whether support or further information is required for the employee's work colleagues.
56. It may be helpful to include educational information regarding gender identity in any communications. Practical details on how to support and address their colleague who is transitioning and how to answer questions from outside the team without breaching confidentiality should also be included. The Headteacher / Principal should ensure that messages are agreed with the employee in advance, and are inclusive and respectful.

## **Use of toilets and changing facilities**

57. Trans and non-binary employees are supported to use whichever toilets and changing facilities they feel most comfortable with. Trans employees are entitled to use the toilets and changing facilities in accordance with the gender in which they present i.e., from the point that they start to live and work in their affirmed gender. If other employees object to this, the Headteacher / Principal should consider steps to raise general awareness and/or ask the employees who object to use alternative facilities. During the transition process, the employee may prefer to use a single-occupancy toilet. They should not be forced to use disabled toilets, and this should only happen at their suggestion.

## **Pronouns**

58. Gender pronouns are words that we use to refer to someone without having to continually use their name. The common pronouns are she/her/hers or he/him/his. People who do not conform to the binary male/female categorisation may use they/them/theirs, or more neutral pronouns such as per, zie or fey. The title Mx may also be preferred to Mr, Mrs, Miss or Ms.
59. Pronouns can be an important part of gender identity. Clarity on individual preferences should be sought from the employee who is transitioning. It's important not to assume someone's pronouns based on their name or how they look, and to remember that a person's pronouns may also change over time.
60. Employees may include their pronouns in their email signatures if they wish to.

## **Job role**

61. The Headteacher / Principal and employee should explore whether there are any duties of the job which may be affected at certain points of the transitioning process and consider what adjustments may be helpful to support these. Employees may also request a temporary or permanent change of role and the Headteacher / principal should consider these requests and look to support these where it is possible and suitable. (This will depend on opportunities at the time and cannot be guaranteed).
62. In rare circumstances where a role requires an occupational requirement for the job holder to be a particular gender (as identified on the job description) the Headteacher / Principal may need to seek an agreed alternative role for the postholder or reassign tasks. In these circumstances seek further advice from a Schools HR adviser.
63. In relation to other types of requests for permanent moves, the Headteacher / principal will look to support this where possible and suitable and seek redeployment. This will, however, depend on the opportunities available at the time and cannot be guaranteed.

## **Dress**

64. In some schools / academies there may be a dress policy or employees may be required to wear uniform. This might be due to health & safety, security or projecting the school's / academy's professional image.

65. Where a uniform or dress policy exists, the Headteacher / Principal should be flexible during the transition period and support the wishes of the trans employee.

## FREQUENTLY ASKED QUESTIONS

66. **Where can I get confidential advice around transitioning?**

This guidance sets out a range of contacts for organisations who offer information, advice, and support on transitioning.

67. **I identify as trans and wish to transition, who can I contact for support in the workplace and what support is available?**

Support is available through a number of sources listed in this document. Your Headteacher / Principal is the person who would usually assist you through this process, but support is also available internally via:

- Occupational Health
- Confidential wellbeing helpline which provides access to specialist counsellors for schools
- Unions

68. **Will all my colleagues be informed of my transition?**

The Headteacher / Principal will arrange to meet you to identify what support can be provided to you in the workplace during your transition (see template MOU set out in this guidance). During this meeting you will have the opportunity to discuss what information needs to be shared, with who, and when. Your Headteacher / Principal will seek your consent before any information is shared with colleagues.

69. **Can I assume a different role within the school / academy while I'm transitioning?**

You will have the opportunity to discuss this with your Headteacher / Principal. They will consider whether any of your duties need to be temporarily adjusted during your transition and will consider any request to be moved to a different role in the school / academy during this period. This will, however, depend on the opportunities available at the time and cannot be guaranteed.

70. **Can I use the facilities, for example changing rooms and toilets, which match my gender identity?**

Trans and non-binary employees are supported to use whichever toilets and changing facilities they feel most comfortable with. You will be entitled to use

the toilets and changing facilities in accordance with the gender in which you present from the point that you start to live and work in this gender, as set out in this guidance. It may be helpful to indicate to your Headteacher / Principal when you intend to start to use the facilities in line with your affirmed gender, so that they can provide support if required.

**71. Who do I go to if I'm being bullied or harassed about my transition or gender identity?**

In line with the dignity at work policy, you should report any incidents of bullying and harassment to your Headteacher / Principal. Alternatively, you can raise concerns through your union.

**72. What steps if any, should a Headteacher / Principal take if they believe that a member of their staff is transgender, but the individual has not disclosed this to them?**

If a Headteacher / Principal believes that an employee is trans, but the individual has not disclosed this information to them, the Headteacher / Principal should respect the individual's choice. The Headteacher / Principal should support the individual by ensuring that opportunities for equality training for colleagues is up to date, and that colleagues have access to sources of advice and information for trans people.

**73. How do I respond if a pupil/parent is using inappropriate language in relation to a colleague who is transitioning?**

You should politely let the pupil/parent know that their language is inappropriate and let your Headteacher / Principal know so that they can decide whether any further action should be taken.

**74. I transitioned at work prior to the introduction of this guidance, will my records be stored in accordance with the guidance?**

If you transitioned at work prior to the introduction of this guidance and you have any concerns about your records, we would encourage you to ask your Headmaster / Principal to contact a Schools HR Adviser to discuss this further in confidence. We cannot identify staff who may be affected and ensure that their records are stored in accordance with the guidance unless they contact us about this.

## FURTHER SUPPORT

Further support for schools / academies is available via the following:

### Internal support:

- Occupational health, for additional advice and support.

### External support:

#### **Advisory, Conciliation and Arbitration Service (ACAS)**

[ACAS | Making working life better for everyone in Britain](#)

ACAS provide free and impartial information and advice to employers and employees on all aspects of workplace relations and employment law.

#### **a:gender**

[Home | Main \(agender.org.uk\)](#)

This is the support network for employees in government departments and agencies who have changed or need to change permanently their perceived gender, or who identify as intersex.

#### **The Beaumont Society**

[The Beaumont Society | Help and support for the transgendered community](#)

This is a national self-help body run for and by trans people. Its website provides links to a range of information and advice resources.

#### **Consortium.LGBT**

[Consortium](#)

This is a national specialist infrastructure and membership organisation focusing on the development and support of lesbian, gay, bisexual, and trans groups, organisations, and projects.

#### **Equality and Human Rights Commission**

[Home Page | Equality and Human Rights Commission \(equalityhumanrights.com\)](#)

This provides guidance on the Equality Act 2010 and has a range of research reports relating to trans issues.

#### **Gender Identity Research and Education Society (GIRES)**

[Gender Identity Research & Education Society – Improving the Lives of Trans People \(gires.org.uk\)](#)

GIRES seeks to improve the circumstances in which trans people live by changing the way society treats them. It provides advice to policy makers, acts as a

consultancy service and provides training, promotes research and good practice guidelines on gender identity.

## **The Gender Trust**

[GenderTrust.org.uk](http://GenderTrust.org.uk)

This provides advice and support on gender identity issues to individuals and employers.

## **Government Equalities Office**

[Government Equalities Office - GOV.UK \(www.gov.uk\)](http://GovernmentEqualitiesOffice-GOV.UK(www.gov.uk))

This has responsibility across the Government for equality strategy and legislation.

## **Press for Change**

[Press for Change - The UK's Leading Experts in Transgender Law \(pfc.org.uk\)](http://PressforChange-TheUK'sLeadingExpertsinTransgenderLaw(pfc.org.uk))

This is a political, lobbying, and educational organisation, which campaigns to achieve equal rights for trans people, and provides information on the law and research into trans issues. Its TransEquality project provides professional legal support to trans people in key areas of the law, and advice to organisations.

## **Swindon and Wiltshire PRIDE**

[Swindon & Wiltshire Pride | LGBTQ+ Festival \(swindonwiltshirepride.co.uk\)](http://Swindon&WiltshirePride|LGBTQ+Festival(swindonwiltshirepride.co.uk))

## **Stonewall**

[Stonewall](http://Stonewall)

## **TransActual**

[TransActual](http://TransActual) is a trans-led advocacy organisation which aims to empower trans and non-binary people to make a difference in their own lives, as well as educate policy makers on the issues impacting trans and non-binary people.

## **Intercom Trust in Wiltshire and Swindon**

[Wiltshire & Swindon | Intercom Trust](http://Wiltshire&Swindon|IntercomTrust)

## **National LGBT Hate Crime Partnership**

[National LGBT Hate Crime Partnership](http://NationalLGBTHateCrimePartnership)



## APPENDIX 1

### MEMORANDUM OF UNDERSTANDING (MOU) : Transitioning

#### Introduction

This document provides guidance and suggested areas of discussion between a Headteacher / Principal and an employee who plans to transition to their affirmed gender. An individual's affirmed gender is their post-transition gender status; their true gender, as opposed to their gender assigned at birth. The agreed actions should be documented, and this will form a Memorandum of Understanding (MOU) between the Headteacher / Principal and the employee. The MOU should set out the key actions to be taken to ensure that an employee's transition at work goes as smoothly as possible. The MOU is part of the trans guidance which Headteachers / Principals should familiarise themselves with. Headteachers / Principals and employees are encouraged to seek further support from HR or Occupational Health.

The MOU and the transition process should be employee-led as far as possible, and it is for the individual employee to decide how and whether they wish to use the MOU format. If used, the Headteacher / Principal and employee should sign the MOU and the Headteacher / Principal should ensure that any information relating to the process is stored confidentially and password protected.

Circumstances and preferences will change, and it is therefore recommended that the MOU is reviewed regularly (every 3 months or as agreed with the employee) to make sure it is up to date, and welfare needs are met. The following is not intended as a checklist, rather a series of prompts to aid your discussion. The objective is to agree the next steps, actions that need to be taken and communications. This is a very personal and sensitive discussion and should be handled in the spirit of mutual dignity and respect.

#### **Memorandum of Understanding**

#### **Support required during the transition process**

How much support would the individual like from the Headteacher / Principal, how often would they like to meet to check in, or to review the MOU?

Is a referral to Occupational Health required?

Has the employee been informed that they can access confidential counselling through the wellbeing helpline?

Is further support required from HR, the LGBT+ staff network, Unions, or external support providers?

**Record agreed actions, timeline, or issues:**

## **Timeline**

Does the employee have any known (or approximate) dates when they will present for work in their affirmed gender?

Is there an anticipated date of name change?

What are the employee's preferred pronouns? How will they identify themselves, for example, as a man, a woman or non-binary?

Has the employee provided the relevant documents confirming the change of name?

What is the timeline leading up to the name change – are there planned dates for treatments, therapies, or surgery? Bear in mind that not every person who transitions will decide to have surgery and the length of time an individual may take to complete their transition will vary. For example, some individuals may have no medical intervention at all, some may have hormone therapy for several years, other individuals may have a number of operations, and some may take breaks from treatment.

Does the employee want to take a period of annual leave before they return to work in their affirmed gender identity?

## **Sick Absence**

How much time will the employee need to take off? The Headteacher / Principle and employee should refer to sections 42 – 45 of the Trans Guidance which covers this in more detail.

The Headteacher / Principal should make the employee aware that should the employee need time off for any treatment, therapy or surgery related to the transition, they are entitled to paid time off in line with the sickness absence management policy and procedure. The employee should give the Headteacher / Principal an idea of expected timescales and dates beforehand, if possible, to ensure that the Headteacher / Principal is able to provide support, and so that arrangements for cover can be considered.

**Record agreed actions, timeline, or issues:**

## **The job and work environment**

The Headteacher / Principal and the employee should discuss the employee's intention to dress in line with their affirmed gender and which toilets and changing facilities they will be most comfortable using. This is to ensure that the Headteacher / Principal can provide any additional support required. If other employees raise concerns regarding the employee's use of particular facilities, Headteachers / Principals will need to consider steps to raise general awareness and / or ask the employees who object to use alternative facilities. If the employee and the Headteacher / Principal agree, it may be better to pre-empt this becoming an issue by communicating and raising awareness - at a time that the employee is comfortable with.

Will there be periods where flexible working or changes or adjustments to the job will be required during the transition process? What are these and what date do they need to take effect?

Does the employee's role have a relevant genuine occupational requirement? (i.e., where it is necessary that the role is carried out by a particular sex)

**Record agreed actions, timeline, or issues:**

## **Changing records**

The Headteacher / Principal and the employee should agree which records need to be changed. A sample list is set out below. They should agree the date for records to be changed, who will action each one and who needs to be involved. Confidentiality should be considered, and express consent should be sought where confidential information is required to be shared with others.

- Identity card
- Identity photo

- Contact details (internal and external information)
- Email address
- Work based internet details
- Work based social media details
- Voicemail
- IT systems
- HR Records
- Headteacher / Principal records
- Pension records
- Business cards
- Work related subscriptions
- Union membership

**Record agreed actions, timeline, or issues:**

## Communications

It is important that the employee agrees who needs to be informed of the change and they should also agree the specific nature of the content of the communications, when and how the information will be shared, and who should tell the identified contacts, i.e., the Headteacher / Principal or the employee. The Headteacher / Principal and the employee should make a list of work contacts who need to be informed of the change and agree their approach in each case. A sample list of potential contacts is set out below.

- Colleagues / team members
- Other contacts in the school / academy
- Other contacts outside the school / academy
- External contacts
- 
- HR / Payroll
- Pensions

**Record agreed actions, timeline, or issues:**

## Awareness-raising requirements

The Headteacher / Principal and the employee should consider if there are any further suitable awareness-raising activities that may be useful for the team and how and when these might be offered.

Record agreed actions, timeline, or issues:

## Support required following transition

The Headteacher / Principal and the employee should discuss and agree what level of support will be provided once transition is complete and how regularly they should meet.

Record agreed actions, timeline, or issues:

## Details of further meetings

Date	Comments	Actions	Date of next meeting

**Signatures:**

Headteacher / Principal .....  
(print name)

Headteacher / Principal .....  
(signature)

Date .....

Employee .....  
(print name)

Employee .....  
(signature)

Date .....