

Transgender guidance - transitioning at work

1. This guidance has been created to assist managers, transgender employees and other employees in Wiltshire Council with information and guidance to assist with practical issues connected to this commitment and in particular to provide guidance on the transitioning process.
2. Wiltshire Council is committed to creating an inclusive workplace, where all employees are recognised and valued, regardless of their gender identity, and where barriers that prevent people from feeling at ease and respected are removed.
3. The council recognises and values the variety of experience which all employees, including transgender employees, bring to the organisation at all levels and the positive impact that this can have, including on service delivery to the diverse community which the council serves.
4. The council is committed to equality of opportunities for transgender people throughout recruitment and employment including supporting transgender employees through any transitioning process and ensuring that transgender employees are treated with dignity and respect and are not discriminated against or victimised, in line with the following policies:
 - Equality and diversity policy
 - Dignity at work policy
 - Behaviours policy
5. It is recognised that terminology around gender identity is extremely important in creating an inclusive workplace and further information is provided on this towards the end of this document. The terminology transgender, trans and gender identity have been used in this document in line with Stonewall recommendations, some individuals, however, may have a preference for the use of different terminology and their preference should be checked with them.

* indicates further information about specific terminology can be found at the end of this document.

Transgender and transitioning

6. Transgender people are those who decide to adopt the opposite gender to that assigned at birth because they do not feel that their gender identity matches that assigned to them. Transitioning is the process of changing to a new gender identity. Transitioning to another gender identity is a personal, social, and sometimes medical process by which a person's gender appears to others to have changed. Some people may choose to go through surgery and or hormone treatment but some people may not and this is a personal choice. The process of transitioning will involve a period when the person lives and works in the gender in which they are transitioning to. This is normally for a period of at least one year.

Legal background

7. **Equality Act 2010** - Gender identity (including *reassignment) is a protected characteristic and anyone who proposes to, starts or has completed a process to change his or her gender is protected from discrimination under the Equality Act 2010. A person does not need to be undergoing medical supervision to be protected. So, for example, a woman who decides to live as a man without undergoing any medical procedures would be covered. Nor does a person need a gender recognition certificate to be protected. The act protects applicants and employees from discrimination including harassment and victimisation.
8. **Gender Recognition Act 2004** - 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 he or she has lived in his or her acquired gender for two or more years and intends to do so permanently. A GRC gives an individual legal recognition in his or her 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 his or her birth was registered in the UK). Applying for a GRC is optional and there is no obligation to do so. A transgender person can choose to change their name, pronouns (he/she etc) and how they dress without a GRC.
9. Where someone has applied for a GRC there are special laws which protect their privacy, a person may commit a criminal offence if he/she discloses information about the gender history of someone with a gender recognition certificate without that person's consent. Information about a person's gender history is therefore 'protected information' and consent from the transgender employee must be sought before this information is shared with another person (preferably in writing).
10. Transgender employees should not be asked questions about whether they have a GRC or not. Not having a GRC should not be used to disadvantage a transgender employee.

Equality and diversity monitoring

11. The council collects workforce equality data on all the protected characteristics including gender reassignment. This data is collected to ensure the council has key workforce data to help us assess the impact of our policy and procedures and to take positive action when required to meet our responsibilities under the public sector equality duty. This information is held confidentially on SAP and is only used as anonymous statistics so that people are not identifiable. Employees are encouraged to provide equality data via our equalities questionnaire however this is optional. There is no requirement for a transgender person to inform anyone of their gender identity history. Further information about this is available on the equalities monitoring faq's.

Recruitment

12. Recruitment to the council will be in line with the recruitment policy which provides a fair and equitable process for managers to follow. This is in line with the council'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 gender history is disclosed during the process through the requirement for documentation, the council will keep this information confidential.

13. The only circumstances in which gender identity may be taken in to account 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 [guidance for managers for equality and diversity and recruitment](#).
14. If disclosure from the Disclosure and Barring Service (DBS) is required as part of the recruitment process, applicants must disclose any previous names and/or gender to the DBS. Transgender applicants may make use of the special application procedure established by the DBS so that their previous name is not disclosed to the organisation. The contact details for the confidential DBS sensitive applications for transgender applicants are 0151 676 1452 or email sensitive@dbs.gsi.gov.uk for further advice about completing the form.

Employment

15. All council policies and benefits will be applied fairly and equably to transgender staff in line with the council's equality and diversity policy.

Confidentiality

16. Managers and employees should allow transgender colleagues to take the lead as to whether they wish to discuss their transgender status. Some individuals want to keep their gender identity private, while others may choose to discuss it with a few colleagues in confidence or be more open about it. It is up to the transgender person who they share this information with and even where they have shared this information with particular colleagues, they may not wish to share it with others. Great care should be taken not to 'out' a transgender employee as this could place them at risk of discrimination and violate their right to privacy. Where someone has a GRC this may also be a criminal offence.
17. Employees are not required to inform the council of their gender history. If an employee chooses to share this information or the council become aware of it through documentation it will keep this information confidential. Any records which the council needs to keep which refer to the employee's past gender eg relevant qualifications in a previous name will also be kept confidential and only specific limited HR staff will have access to them as required. They will be destroyed when the council no longer requires them. The council will not disclose this information to other parties without the consent of the employee.

Discrimination and Harassment

18. Wiltshire Council adopt a zero-tolerance approach towards discrimination and harassment based on gender identity.

19. 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 managers in relation to third party harassment, please see the [dignity at work policy](#) and [guide to dignity at work and equality and diversity](#).
20. Managers are responsible for taking timely action where misconduct occurs relating to the treatment of a transgender employee. This should be monitored and followed up.

Transitioning Meeting

21. Employees who wish to transition are advised to let their manager know of their intention to transition so that practical arrangements can be made and support put in place. Their manager will arrange a meeting with them and the checklist below can be used as a guide for discussions.
22. Where an employee has made the decision that they wish to transition while they are at work confidential support is available internally through:
 - Their manager
 - Staff networks – the council support an [LGBT public sector forum](#)
 - Occupational Health – for support with health concerns
 - Confidential well being help line which provides access to specialist counsellors
 - HR and unions
 - External sources of support for staff are set out towards the end of this document.
23. The role of the manager in supporting transitioning can make a big difference and a positive and supportive approach is important to make the transitioning process as smooth as possible. Transitioning can be an extreme difficult time for a transgender person. It may have taken many years to reach a decision to take this step and some people may have had many difficult experiences including years of repressing their identity and this may have had a considerable impact on their health and wellbeing. Access to treatment can sometimes be urgent. Transgender employees may find it difficult to let managers and colleagues know about their intentions to transition.
24. Managers should be aware that some other *non-binary employee's may also approach them about changes they wish to make to their identity which may not involve the complete transitioning process and social gender changes. Managers should also follow the guidance below in these circumstances.

Key points for managers:

- The manager 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 manager leading the transition meeting is strongly advised to read this guidance and view the GIRES e-learning awareness video and resources before the meeting and seek support from their HR adviser/HR equality officer (with agreement from transgender employee). Other sources of information are also available as set out at the end of this document.
- A template action plan/MOU can be used (as set out at the end of this guidance). 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 – password protected. Any hard copies should be stored in a double sealed envelope clearly marked with confidential and identifying who is authorised to open and see the information and should be kept in a locked drawer.
- Confidentiality should be maintained at all times. Great care should be taken not to 'out' a transgender employee or violate their privacy. Information about transition should not be disclosed to any other/third parties without express permission of the employee.
- The employee may bring a union rep or colleague for support.
- Managers and employees can seek further advice through HR and an HR adviser/HR equality officer may also attend the meeting if this is requested
- The MOU should be reviewed regularly to make sure it is up to date and welfare needs are met – eg reviewed every 3 months or as agreed with individual.

25. The meeting with the line manager should cover the following areas (a template for the meeting is set out below):

Dates and timescales

26. The employee should identify when key dates and events are likely to occur and how these fit in with relevant workload commitments and deadlines. These key changes may include document, physical changes or role changes.
27. Employees should let their manager know the expected timescales of any the medical and surgical procedures and the time off required for medical treatment and recovery. Practical consideration relating to cover etc should be considered.
28. The length of time an employee takes to complete his or her gender reassignment will depend on the individual's circumstances, including the type of medical treatment they are having. For example, they may decide not to have surgery or any medical intervention at all, or employees may take breaks from their treatment or they may have hormone therapy for a number of years before having surgery.

Absences from work

29. Employees should discuss with their manager how much time they are likely to require in terms of appointments, surgery and recovery. Employees who are transitioning are entitled to time off in line with the managing sickness absence policy. Reasonable sickness absence in relation to transitioning should be recorded but not used as part of any absence management process and should be regarded as a short term reasonable adjustment. 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.

30. It is recognised that timescales may change overtime in relation to original estimates and that there may be long waiting lists and potential delays particularly in relating to treatment on the NHS.
31. Managers should also consider the requirement for the following on an individual basis:
 - Referral to occupational health for additional advice and support if there are particular concerns.
 - Support is also available via the employee well-being helpline which involves confidential assessment and may include signposting to specialist counsellors.
 - Health and safety risk assessment - any identified risks should be removed or minimised. This may involve making temporary adjustments to the role during particular periods of the transitioning process. Risk assessments should be reviewed regularly during the transition process and at key points in the process; eg following surgery.

Change of name, personal details and social gender.

32. The employee should let the manager know their new details and how they wish to be addressed. They should also agree the process for the change of name and the timescales. The employee should provide any documentary evidence they have including passport or driving licence but in the absence of these a signed statement from the individual stating that they are changing their name and confirming the old and the new name and title should be enough.
33. Managers and employees should identify what other records need to be changed and consider and make arrangements for changes in relation to these including identity badges, email accounts, other directories and contact details. Agreement should be reached about how the changes can be made ensuring confidentiality where possible or agreeing who the information will be shared with, if changes require the involvement of others eg a new identity badge, change of contact details can be requested without revealing past identity history.

Record keeping of sensitive information.

34. The storage of sensitive data is covered by the Data Protection Act 1998. In accordance with the Data Protection Act details of previous names, titles and pronouns (he/she etc) on previous documents cannot be seen except by a small number of people in the organisation who are authorised to see the information.
35. The manager and employee will need to consider 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.

36. Consideration should also be given to the issue of 'old' records including personal records and information on the council websites including photo's etc. Old records should only be retained where there is a specific reason for this and following discussion with the employee. Payroll and National Insurance details may also need to be adjusted and other people in the organisation will need to be involved in this within an informed context.
37. The manager should obtain written consent from the employee prior to disclosing the employee's change of gender for the purposes of changing records. Managers can seek further information on this through an HR case adviser/equalities officer.

Communicating the change to others.

38. The manager and employee should discuss the individual's wishes in relation to informing others about the changes including, other managers, colleagues, service users and other contacts. They need to agree whether the employee would wish to do this or whether they would prefer the manager or a work colleague to do this or a mixture of these options. They 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. Managers should assess whether support is required for the employee's work colleagues; e.g. further information.
39. It may be helpful for communications to include some awareness raising information for colleagues and to address some practical including how to address their colleague who is transitioning, how to support them and how to answer questions from outside the team without breaching confidentiality etc. Managers should ensure that messages are inclusive and respectful and agreed with the employee in advance.

Job role

40. The manager 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 managers 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).
41. 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 manager may need to seek an agreed alternative role for the postholder or reassign tasks.
42. In relation to other types of requests for permanent moves, managers will look to support this were possible and suitable and seek redeployment. This will, however, depend on the opportunities available at the time and cannot be guaranteed.

Dress

43. In some areas of the organisation employees may be required to wear uniform or there may be a dress policy. Legitimate aims for this might relate to health and safety, security or projecting the Council's professional image.
44. Where a uniform or dress policy exists in the service areas managers should be flexible during the transition period and support the wishes of the transgender employee where possible. During the transition period, the employee may require access to both male and female uniforms.

Use of toilets and changing facilities

45. Transgender employees are entitled to use the toilets and changing facilities in accordance with the full time gender which they present in their new gender role. If other employees object to this, managers should consider steps to raise general awareness and/or ask the employees who object to use alternative facilities. The transgender employee should not be asked to use alternative facilities including disabled facilities.

Implications for pensions

46. Entitlement to state pension is based on the sex stated on the birth certificate unless a transgender person has a gender recognition certificate. Entitlement to the Wiltshire pension scheme is based on a retirement age of 65 years old for men and women. Managers 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 and on a need to know basis and between those who are required to process the records.

References

47. Where a reference request is received for an existing employee who has transitioned, the council will respect the employee's privacy and only respond using the employee's new name and gender in the reference.
48. Where a reference is requested by the council, the council will also make the request using the employee's new name and gender since transitioning and will not mention any previous names or gender identity.

Frequently asked questions

49. **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.

50. **I identify as trans and wish to transition, who do I need to contact first for support in the workplace and what support is available?**

This is a very individual decision and support is available through a number of sources listed in this document. Your line manager is the person who you would usually assist you through this process but support is also available internally via:

- Staff networks – the council support an [LGBT public sector forum](#)
- Occupational Health – for support with health concerns

- Confidential well being help line which provides access to specialist counsellors
- HR and unions

51. Will all my colleagues be informed of my transition?

Your manager 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) You will have the opportunity to discuss what information should be shared and who this needs to be shared with and the timescales for this. Your manager will seek your consent before any information is shared with colleagues. Colleagues who work closely with you are normally likely to need to know to ensure that good working relationships are maintained.

52. Can I assume a different role within the organisation while I'm transitioning?

You will have the opportunity to discuss this with your manager. They will consider whether any of your duties need to be temporarily adjusted during your transitioning and will consider any request to be moved to a different role in the organisation during this period and whether this request can be accommodated.

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

You will have the opportunity to discuss this with your manager. You will be entitled to use the toilets and changing facilities in accordance with the full time gender which you present in your new gender role as set out in this guidance. It would be helpful to agree a date when you will start to use the facilities in line with your new gender with your manager so that they can provide support if required.

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

You should report any incidents of bullying and harassment to your line manager or through another senior manager in your service area in line with the [dignity at work policy](#). Alternatively you can raise concerns through your union, LGBT public staff forum or through HR, in line with the dignity at work policy.

55. What steps if any should a manager take if they believe that a member of their team is transgender but the individual has not disclosed this to them?

If a manager employer believes that an employee is a transgender man or woman, but the individual has not disclosed this information to the employer, the employer should respect the individual's choice. However, the manager should still support the individual including ensuring that opportunities for equality training for team members is up to date, and that team members have access to sources of advice and information for transgender people.

56. How do I respond if a customer/client/service user is using inappropriate language in relation to a colleague who is transitioning?

You should politely let the customer/client/service user know that their language is inappropriate and let your manager know so that they can decide whether any further action should be taken.

57. What is a pronoun and how do I know which one to

Pronouns include he/she, his/hers etc. Clarity on individual preferences should be sought from the employee who is transitioning. Some individuals may have a preference for more neutral pronouns such as: they, per, zie or fey; and the title Mx may be preferred to Mr, Mrs, Miss or Ms.

Transgender Transition template discussion document/memorandum of understanding

This form provides a template for a meeting between a manager and an employee who plans to transition and sets out key areas relating to the transition process which it would be helpful for the employee and manager to discuss and agree actions on. This form is part of the guidance on transitioning for employees and managers and should be used in conjunction with the full information set out in the document.

The transition process is employee led as far as possible and it is for the individual employee to decide how they wish to use this form. If the form is used the manager and employee should sign it and the manager should ensure that any information relating to the process is store confidentially and password protected.

It is recommended that the information should be reviewed regularly at least every three months (or more regularly during key parts of the process) or as agreed with the employee.

Plans for transition

Timeframe for the transition process - key dates for the manager to be aware of (including key dates for surgery, recovery or other treatment if relevant)	
Anticipated date of change to new gender	
Expected date of name change	
Expected date of appearance change	
Clarity in relation to correct use of pronouns	
Signed document to confirm change of name	

Time off

Time off required for medical treatment and surgery (if applicable). What dates if known?	
Other time off requirements. What dates if known?	
Sickness absence recording process	
Is a referral to Occupational Health required	
Let employee know that employees can access confidential counselling through the wellbeing helpline in Occupational Health	
Is a health and safety risk assessment required?	

The job and work environment

Are any changes to the job required during the transition process and what are these and when do they need to take effect	
Are any adjustments required? What are the timescales relating to this	
Job occupational requirement (if relevant)	
Dress/uniform date of change and any transitional arrangements (if	

relevant)	
Timing and use of single sex toilet and changing facilities	

Support required

Manager availability during key events above to provide support	
Level of support required from manager	
Frequency of meetings with manager	
Is further support required from OH, HR, LGBT staff forum, Union or external support provider.	

Changing records

Manager and employee should make a list of the records which need to be changed. Agree the date for records to be changed, who needs to be involved and confidentiality should be considered. Express consent should be sought where confidential information is required to be shared with others. A sample list is set out below.	
Identity card	
Photos	
Contact details (internal and external information)	
Email address	
Work based internet details	
Work based social media details	
Voicemail	
IT systems	
HR records	
Manager/service area records	
Pension records	

Communications

Manager and employee should make a list of work contacts who will need to be informed of the change. They should agree the specific nature and content of the communications, who should be included, timings, how the information will be shared and who should tell the identified contacts. A sample list is set out below.	
Colleagues	
Other contacts in the service area	
Other contacts outside the service area	
External contacts	
HR/Payroll	

Awareness raising requirements

Manager and employee should consider whether there are any further awareness raising or training needs requirements and how these might be delivered including timing.	
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Needs following transition

Level of support required following transition	
Frequency of meetings	

Details of further meetings

Date	Comment	Actions	Date of next meeting

Signatures:

Line Manger (print name)

Line Manager (signature).....

Date

Employee (print names)

Employee (signature).....

Date

Terminology

(source Xperthr)

Understanding the terminology relating to gender identity is the first step to creating an inclusive workplace for transgender people. The inappropriate use of language can cause offence and distress to employees and undermine the employer's efforts to support transgender men and women.

Trans men and women may have preferences regarding the language they use, the following are some of the key terms of which to be aware:

Transgender (or trans): This is an umbrella term describing people who feel the need to present themselves in a gender that differs from the one that they were assigned at birth. It can encompass individuals who are transsexual, cross-dressers (or transvestite), intersex or non-binary. Employers should use the term as an adjective, rather than as a noun.

Transsexual: A transsexual person has a deeply held belief that his or her gender identity does not accord with the gender that was assigned to him or her at birth. A transsexual person is likely to undergo hormone therapy and/or surgery to change his or her body to reflect his or her inner gender identity. The process of moving permanently from living in one gender to living in the other is known as "transitioning" or "gender reassignment".

Trans man: This describes a person who was labelled female at birth but has a male identity and transitions to live permanently as a male.

Trans woman: This describes a person who was labelled male at birth but has a female identity and transitions to live permanently as a female.

Gender identity: This refers to the gender that an individual feels that he or she should be; it is the individual's internal perspective.

Gender expression: An individual's gender expression is how that person expresses his or her identity to others, for example through dress, mannerisms, behaviour, voice and hairstyle.

Gender dysphoria: This is a condition where the individual feels that he or she is "trapped" in a body of the wrong sex, causing him or her anxiety and discomfort.

Gender reassignment: The process of transitioning from one gender to another

Cross-dresser (or transvestite): This describes someone who chooses, some of the time, to wear clothes associated with the opposite gender to the one that he or she was assigned at birth. Many cross-dressers are comfortable with their birth gender and do not intend to live permanently in the opposite gender.

Intersex: An intersex person is born with ambiguous genitalia and/or sex chromosomal variations, which can make it difficult to classify his or her biological sex.

Non-binary: This is a catch-all term that is used to describe people whose gender identity is something other than exclusively male or female.

Passing: This is when a transsexual person is seen by other people as being in the gender with which he or she self identifies. For example, a trans woman "passes" when she is seen by others as a woman, not as someone whose gender at birth was male.

Real life experience: This refers to the period of time that a person must live and work in his or her acquired gender before he or she will be given medical treatment through the NHS. In most cases, this period is between one and two years.

Further support

Contacts for further external information for employees and managers
(sources Xperthr and local)

- [a:gender](#) 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](#) This is a national self-help body run by and for transgender people. Its website provides links to a range of information and advice resources.
- [Consortium of lesbian, gay, bisexual and transgendered voluntary and community organisations](#) This is a national specialist infrastructure and membership organisation focusing on the development and support of lesbian, gay, bisexual and transgender groups, organisations and projects.
- [Equality and Human Rights Commission](#) This provides guidance on the Equality Act 2010 and has a range of research reports relating to transgender issues.
- [Gender Identity Research and Education Society \(GIRES\)](#) This 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 develops good practice guidelines and literature on gender identity.
- [The Gender Trust](#) This provides advice, information and support on gender identity issues to individuals and employers.
- [Government Equalities Office](#) This has responsibility across the Government for equality strategy and legislation.
- [Press for Change](#) This is a political, lobbying and educational organisation, which campaigns to achieve equal rights for trans people. Its website is a useful source of 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 businesses and non-profit organisations.

- Stonewall – provide LGBT information and advice to individuals and organisations, they are also involved in political, lobbying.
- Swindon and Wiltshire PRIDE
-  Intercom Trust service in Wiltshire Intercom Trust service in Wiltshire 822kb
- National LGBT Hate Crime Partnership