

Trans Equality Policy



ORGANISATIONAL DEVELOPMENT DIVISION

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This document is also available in Welsh / Mae'r ddogfen hon hefyd ar gael yn Gymraeg

Version Control

This document is intended for:

- Council staff only School-based staff only Council & School-based staff

Version	Key Changes	Approved By
Feb 2021	New Policy	Council

This document may be reviewed and amended at any time and without consultation in response to legal requirements or in response to an organisational requirement and where the changes do not reflect a fundamental change or affect the spirit or intent of the document.

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1. Policy Statement

- 1.1 The Trans Equality Policy has been developed to ensure that employees who do not identify with their birth assigned gender have the right to equal treatment and protection from discrimination at work, and managers are clear about their individual roles and responsibilities for supporting colleagues who are transitioning whilst in the workplace.
- 1.2 For the purpose of this policy, 'we', 'us' and 'our' refers to the Council and Schools.
- 1.3 Blaenau Gwent County Borough Council is committed to supporting employees undergoing, or planning to undergo, gender reassignment and transition.
- 1.4 We will seek to not only eliminate all discrimination based on Gender Identity, but also create a working environment based on good relations between all employees, with a shared commitment to respecting diversity and difference. In addition, we will seek to ensure that its work environment enables employees to work to their full potential, provide a place where there is a culture of respect for human rights, and where employees feel valued.
- 1.5 This Policy is based on the principle that we will ensure that no transgender person will be treated less favourably on the grounds that they are proposing to undergo, are undergoing, or have undergone a process (or part of a process) to reassign their sex by changing physiological or other attributes of sex. We respect an individual's right to self-identify as male, female, or non-binary and we commit to recognising all employees as the gender in which they choose to present.
- 1.6 This policy has been developed in line with ACAS Guidance on Gender Reassignment, the Equality Act 2010, and alongside the Council's Strategic Equality Plan 2020-2024.

2. Definition

- 2.1 Although it is difficult to identify an exact number of individuals within the UK, there is a large number of individuals whose gender identity does not match their birth assigned gender, also known as Gender Dysphoria.
- 2.2 The term 'Trans' is used as a generic term referring to individuals who identify as transgender, transsexual, and transvestite and we will not discriminate against employees on the grounds of any of the identities under the trans umbrella.
- 2.3 Trans or 'transgender' describes individuals whose gender identity differs from their sex assigned at birth. They are umbrella terms covering individuals 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.

2.4 Some Trans individuals want their body to match their gender identify, and will undergo a process of gender reassignment. However, the term transgender also covers those who cannot, or have decided not to undergo medical treatment. When referring to ‘gender identity’, this covers both the identities of individuals living in the gender of their birth sex, and the identities of transgender individuals. We recognise there is no right or wrong way to transition and are committed to supporting each individual in their decisions.

2.5 Trans individuals will self-identify. How they choose to describe themselves must be respected. If in doubt, always ask the individual how they wish for you to address them.

3. Scope

3.1 This policy applies to all employees and potential employees of the Council and School based employees.

4. Legislation

4.1 This policy has been developed in line with the legal obligations under The Equality Act 2010 and the Gender Recognition Act 2004.

4.2 The Equality Act 2010 (EqA 2010) makes gender reassignment a protected characteristic in its own right, and defines gender reassignment as applying to someone who is proposing to undergo, is undergoing, or has undergone a process (or part of a process) to realign their gender by changing physiological or other attributes of their sex.

4.3 The EqA 2010 makes it clear that it is not necessary for an individual to have obtained medical intervention to gain protection; it is a personal process of moving away from a person’s birth gender to their preferred gender.

4.4 The term “transgender” is applied when someone has the protected characteristics of gender reassignment.

4.5 The EqA 2010 protects individuals based on gender reassignment from direct and indirect discrimination and harassment. This includes discrimination by association and discrimination against individuals perceived to have the protected characteristics of gender reassignment. All employees have a duty to respect others in line with the EqA 2010.

- 4.6 The Gender Recognition Act 2004 (GRA 2004) provides Trans individuals (aged over 18) with the opportunity to obtain legal recognition in their acquired gender by being issued with a gender recognition certificate (GRC). Anyone with a GRC will be legally recognised as their acquired gender, this means the person will acquire the rights and responsibilities of their acquired gender from the date of recognition. However, not all Trans individuals will choose to apply for a GRC and it is not our policy to ask a member of staff or job applicant if they have a GRC, or to ask to see a GRC. Asking a colleague or job applicant if they have, or asking to see, a GRC is not permitted; and could be regarded as harassment, and will be dealt with under the relevant Council/ Schools policies.
- 4.7 The GRA 2004 also places a proactive duty on public organisations through the Public Sector Equality Duty (PSED) to promote equality of opportunity, foster good relations and eliminate unlawful discrimination between individuals who have the protected characteristic of gender reassignment and individuals who do not.

5. Equality

- 5.1 We will not discriminate on the grounds of gender identity in the way we recruit and select employees and will ensure that transgender employees have equal access to all forms of training and development opportunities. We will ensure that there is no discrimination on the grounds of gender identity in relation to dismissal of employees. Abuse, harassment or bullying (e.g. name-calling, derogatory jokes, unacceptable or unwanted behaviour and intrusive questions) will be treated seriously, and should be dealt with under the relevant Dignity at Work Policy and Disciplinary Policy. Harassment also includes persistent and/or malicious use of the incorrect pronoun or “dead naming” (i.e. calling someone by their birth/pre-transition name after they have changed their name).
- 5.2 We recognise that stereotyped gender roles can be harmful to Trans individuals, who may feel constrained to behave in ways, or work in areas that are traditionally considered appropriate for their registered sex at birth (or appropriate for their role during and after gender transition). Encouragement and support will be given to any employee who is trying to step outside the constraints of stereotypes in any area of our work.
- 5.3 Transgender employees have equal rights and equal access to benefits. This includes equal recognition of their partner and family, and they must not be discriminated against on the grounds of gender or marital/civil partnership status.

Such Benefits include:

- Paternity Leave and Parental leave.
- State pensions (received at a date relating to their age and gender once Gender Recognition Certificate received).
- Passing on pensions rights to partner/children.

6. Support

- 6.1 Employees planning to undergo gender reassignment are encouraged to speak to their manager or someone else in confidence, as early as possible before they wish to transition in order that we can provide the necessary support.
- 6.2 The first step will be to work together, with the help of Organisational Development, to develop a plan of how the employee's transition to a new gender will be accommodated in the workplace. This may take some time and will usually involve a number of discussions at which the employee's needs and feelings will be explored together with all of the work implications.

Things for managers to consider include:

- The expected timescales of any medical or surgical procedures (if the employee is proposing to undergo surgery).
 - The amount of time off that may be required for treatment and/or possible side effects from any medication.
 - The expected point or phases of change of name, personal details and gender.
 - Whether the employee wishes to inform colleagues themselves or would prefer others to do this.
 - Discussing with the employee changes to their employment records.
 - What other support the employee may need.
 - Use of single sex facilities.
 - Any other matters, which may include redeployment, suitable alternative employment and retirement on medical grounds in exceptional circumstances.
- 6.3 It should be noted, however, that there is no requirement for a Trans individual to inform their employer of their gender reassignment status and we will not in any way penalise any employee for failing to make their transitioning status known to their manager, colleagues or Organisational Development, or for any delays in making this information known.
- 6.4 Equally, the employee transitioning should appreciate that they cannot expect that we will be able to make reasonable adjustments on their behalf if we are unaware of their status.

7. Adjustment of Records

- 7.1 For the purposes of the Data Protection Act 2018, gender reassignment and any information relating to an individual's gender history would constitute 'sensitive data' which can only be processed for certain specified reasons, as set out in the Act.
- 7.2 We will respect any request for anonymity and will seek to update our records to include the chosen name and gender identified by the individual upon request, whether or not we are in receipt of any legal notice of change, and will agree for this change to take place at an agreed time.

- 7.3 As transgender individuals have not been able to gain legal recognition of their 'new' gender in the past, it may be necessary for some records (e.g. relating to pensions) to include a reference to legal sex.
- 7.4 After transition, any new records for the individual shall refer only to the new name and acquired gender. Records pre-dating transition will be updated. Wherever possible, details of previous name and gender should be deleted, as it would be discriminatory not to do so unless their retention is justified and proportionate.
- 7.5 Managers should be mindful that it is inappropriate to request evidence of name and gender change and unlawful to disclose an employee's transgender status without their consent.
- 7.6 If legal notice in the form of a Gender Recognition Certificate; Statutory Declaration of Name Change or Deed Poll is provided, then access to records showing the change of name and any other details associated with an employee's transgender status (i.e. records of absence for medical treatment) should be restricted to appropriate employees who 'need to know' for specific reasons. This refers to those directly involved in the administrative process i.e. the individuals Line Manager, Organisational Development, Payroll or Pensions section. Failure to update and maintain records to reflect the employees' transition could result in unlawful disclosure of the employees' transition.

8. Time off Work

- 8.1 A Trans employee undergoing medical and surgical procedures relating to gender reassignment may require time off from work. There are specific rules under the Equality Act 2010 governing those undergoing gender reassignment. Employees undergoing this procedure should not be treated less favourably than they would be treated if absent due to sickness or injury.
- 8.2 Managers should be aware that it might not be straightforward for Trans employees to provide evidence of medical appointments. For example, provision of a letter from a gender identity clinic may in itself be quite revealing and intrusive. Therefore, medical proof should not necessarily be a requirement for consideration of time off work to be granted.
- 8.3 The manager should show the same flexibility as for someone undergoing any other treatment or operation. For individual appointments, employees should follow the normal policy for medical appointments. As a matter of good practice, managers should offer flexibility to employees who take annual leave or rearrange working hours in order to attend additional appointments i.e. electrolysis. Managers should remember that it would constitute unlawful discrimination if they treat an employee that is undergoing gender reassignment less favourably than someone absent for some other medical reason.

- 8.4 Complications may arise as a result of medical treatment for gender reassignment resulting in prolonged incapacity for work. As with any long-term illness, the employee will be supported and monitored by their manager, with advice from Occupational Health and Organisational Development. If incapacity continues beyond normal expectations for the process undergone, the relevant Attendance Management Policy will give guidance to managers on how to proceed. This will include options to consider reasonable adjustments; redeployment; retirement on medical grounds; or the potential for dismissal, in the same way as any other person who becomes unfit for employment due to ill health.
- 8.5 We will provide support for employees returning after a break caused by medical and surgical treatment, and will adopt a flexible approach which endeavours (whenever possible) to meet the individual needs of employees who are recuperating. It may be appropriate to discuss a phased return to work in accordance with the relevant Attendance Management Policy.
- 8.6 Time off related to an employee's transition will not be taken into account when considering them for promotion, pay progression or in relation to a redundancy situation.

9. Period of Transition

- 9.1 An employee who has taken the decision to go through the transition process can request a meeting with their manager and/or a member of Organisational Development to inform them of their decision. Whilst there is no statutory requirement, they may wish to be accompanied by a trade union representative or work colleague.
- 9.2 Topics that could be discussed are provided below, however this is not an exhaustive list and the employee must feel comfortable at all times, and a Support Plan is attached (please see [Appendix 2](#)).

Toilet/Changing Facilities

A Trans employee should be free to select the facilities appropriate to the gender in which they present. For example, when a Trans individual starts to live in their acquired gender on a full time basis they should be afforded the right to use the facilities appropriate to the acquired gender role. A Trans employee should be granted access to 'men only' or 'women only' areas according to the sex in which they permanently present. Under no circumstances should they be expected to use the facilities of their former gender.

For non-binary individuals, this might mean using a combination of different facilities or gender-neutral or accessible facilities.

Dress Code

Managers should allow flexibility in dress codes to accommodate the process of transition from one sex to another. All Trans employees can expect to have any requests treated in the utmost confidence and will be responded to in confidence. It is essential that the individual grants permission before their status is discussed with any third party. Where uniforms are worn, a workplace uniform that corresponds to the employees chosen identity will be provided at a time agreed with the employee if applicable.

Communication

Managers should not inform colleagues, elected members, service users or the public that an employee is intending to undergo; is undergoing or has undergone gender reassignment, without the employees' explicit agreement.

Occupational Health/Employee Assistance Programme

Employees who intend to transition will be offered the opportunity for a referral to the Occupational Health Service for advice and support. We also offer an Employee Assistance Programme, for which details are available on the [intranet](#), for those who wish to discuss their transition with an independent service.

- 9.3 The employee undergoing transition will have the right to request a meeting with colleagues in their area of work at which their status as a transitioning employee is explained. At this meeting, the manager will support the employee. The transitioning employee may choose if they wish to answer questions from other employees. If such a meeting takes place, then all those involved will be bound by the same rules of confidentiality given above. The status of the employee undergoing transition will not be discussed with any third party without the prior consent of the employee who is changing gender. Failure to observe these rules of confidentiality may result in formal action under the relevant Disciplinary Policy.
- 9.4 Following the date chosen by the transitioning employee, any remaining information will be changed to reflect their new gender identity; employee lists, organisational charts, post trays, door signs, and all other relevant information will be changed. The name of the employee who has undergone transition will not be inappropriately withheld from any list; omission can be embarrassing. Other considerations for discussion could include identification passes, contact details, email addresses, formal records, website references, or any other matter raised by the employee undergoing transition.
- 9.5 For employees working alongside the person, there may be some training and support needs. It may be useful to look at these on two levels – specific issues regarding the employee and broader awareness about gender reassignment. During the meeting, it is recommended that managers should:
- Include sufficient information to convey the facts.
 - Not go into too much detail.
 - Respect the wishes of the transgender employee and their right to medical confidentiality in terms of discussing detailed personal matters.
 - Pitch the information at a level and style appropriate to the audience involved.
 - Remember to include the name that the employee wishes to be known by in their new gender.

- Remind employees of their duty to maintain confidentiality and that we are committed to creating a working environment in which all employees are treated fairly and with dignity and respect.
- Provide details of how colleagues might seek further information, should they need to.

10. Recruitment

- 10.1 In most cases, the gender of an individual has no bearing on their ability to do their job. We are committed to ensuring that there is no discrimination against potential employees in the recruitment process. There is no obligation for a Trans individual to disclose their status as a condition of employment. Moreover, non-disclosure, or subsequent disclosure, will not be grounds for dismissal.
- 10.2 If an employee has transitioned prior to joining us and has disclosed this, we should not mention their transsexual history. This includes employees selected for promotion. Indeed, this could constitute a criminal offence in the case of someone who has obtained a Gender Recognition Certificate. Any forms and documents relating to transgender status that are provided during the interview and resulting procedures will be considered confidential and should be restricted to appropriate employees and the individual themselves.
- 10.3 Where there is a genuine occupational requirement for a job to be carried out by a particular sex, it will be necessary for the Trans individual to disclose their status to the panel. Exemptions are as follows:
- If the job involves conducting personal searches pursuant to statutory powers. If the issue does arise then we must consider whether another employee could carry out the tasks.
 - If the job involves working in a private home, where there would be close physical or social contact, or knowledge of the intimate details of a person's life and we can show that individuals would object.

These exceptions will not apply where the individual has obtained a Gender Recognition Certificate. Where an employee intending to undergo gender reassignment currently holds a position in a single sex role or environment prior to a change of gender, it could be beneficial for all involved if discussions take place around redeployment. In these circumstances, options should be discussed early in order to agree a satisfactory arrangement.

Redeployment/Retirement

- 10.4 An employee who is undergoing gender reassignment may ask for support to search for redeployment opportunities, or for ill-health retirement. This will include options to consider reasonable adjustments; redeployment; retirement on medical grounds, or where all other options have been exhausted, potential dismissal. Prior to any discussions regarding dismissal, please seek advice from Organisational Development.

- 10.5 An employee may seek support to change jobs, if they feel working in a different role may support them as a transgender individual. Management may support this, where suitable alternative roles are available, as a reasonable adjustment as required under the Equality Act 2010.
- 10.6 Alternatively, the employee may wish to apply for internal vacancies when roles they deem suitable are advertised.

References and Certificates

- 10.7 Where we receive a reference request for an existing employee who has transitioned, we will respect the employee's privacy and only respond using the employee's correct name and gender in the reference.
- 10.8 Disclosure on 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 how they record this information in order to avoid a disclosure of the information.
- 10.9 When we request a reference, we will make the request using the prospective employee's correct name and gender since transitioning. Previous names or gender identity will not be mentioned unless the Trans individual specifically asks (in writing) for this to be done.

Qualifications/Professional Registration

- 10.10 If the manager has to keep evidence of professional status or qualifications, they should discuss with the employee concerned how to retain such evidence on file – if, for example, certificates are in the employee's original name – so as not to compromise or breach disclosure of protected information.

Disclosure and Barring Service

- 10.11 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. Trans applicants may make use of the special application procedure established by the DBS so that their previous name is not disclosed to us.

11. Monitoring

- 11.1 In Wales, the Equality Act 2010 (Wales) Regulations 2011 places a specific legal duty upon public authorities that requires the Authority to have effective arrangements in place to monitor equality and have in place systems to gather, analyse and publish employment monitoring data. No information will be published, or used in any way that identifies an individual.

12. Responsibilities

12.1 We will ensure that:

- Equality for Trans employees is included in their Gender Equality Scheme and where equality policies refer to discrimination on grounds of sex; this also refers to discrimination on grounds of gender identity and gender reassignment in line with the Gender Reassignment Regulations and The Equality Act.
- Trans issues are included in all equality training, as far as reasonably practicable.
- Employees and managers are aware of our statutory responsibilities in relation to gender reassignment (and other relevant legislation) as an employer and service provider.

13. Dignity at Work

13.1 We will seek to provide a supportive environment for those who make claims of discrimination or harassment. This includes challenging discriminatory behaviour by employees, managers or service users. Acts of discrimination (direct or indirect) on the grounds of gender identity, harassment, victimisation or abuse will be treated seriously, and will not be tolerated. Any employees witnessing any discriminatory behaviour towards a trans employee, including harassment or bullying must report it to us. All complaints will be treated in confidence.

13.2 Employees who feel they are being discriminated against on grounds of gender identity by other employees/members of the public/service users should raise the matter under the relevant Dignity at Work Policy.

Appendix 1 – Support and Advice

Support and advice is available from the following organisations:

https://www.beaumontsociety.org.uk/	Beaumont Society is a support network supporting the better understanding of transgender, transvestism and gender dysphoria.
https://www.equalityadvisoryservice.com	Equality and Advisory Support Service (EASS) has a helpline that advises and assists individuals on issues relating to equality and human rights, across England, Scotland and Wales
https://www.equalityhumanrights.com/en	Equality and Human Rights Commission (EHRC) is a statutory body with responsibility for protecting, enforcing and promoting equality rights across all protected characteristics
https://www.gires.org.uk/	Gender Identity Research and Education Society (GIRES) provides information for trans individuals, their families and the professionals who care for them.
http://www.gendertrust.org.uk/	Gender Trust supports all those affected by gender identity-related issues in their work.
http://genderedintelligence.co.uk/	Gendered Intelligence work predominantly with the transgender community and those who impact on transgender lives. They particularly specialise in supporting young transgender individuals aged eight to 25.
https://www.inclusiveemployers.co.uk/	Inclusive Employers are leading UK inclusion and diversity experts, working with employers to create inclusive workplaces.
https://www.mermaidsuk.org.uk/	Mermaids provide support specifically for families and children on gender identity matters.
http://www.pflag.co.uk/	Parents and Friends of Lesbians and Gays (PFLAG) is a support organisation that provides free support to parents, family and friends of LGBTQ+ individuals in the UK.
https://www.pinktherapy.com/	Pink Therapy is an independent therapy organisation working with gender and sexual diversity clients.
www.stonewallcymru.org.uk	Stonewall Cymru is the all-Wales Lesbian, Gay, Bisexual and Transgender (LGBTQ+) Charity. Their aim is to achieve equality for LGBTQ+ individuals at home, at school and at work.
https://www.lgbtcymru.org.uk/	The LGBT Cymru Helpline is a free and professional caring service for Lesbian, Gay, Bisexual & Transgender individuals in Wales aiming to offer support and information to the LGBTQ+ community. Offering a free telephone helpline, and low cost Counselling service.
https://www.victimsupport.org.uk/help-and-support/get-help/support-near-you/wales/gwent	Victim Support provide emotional and practical help to people who have been affected by crime in Gwent, regardless of whether the incident has been reported to the police. They make sure a person gets the information and support needed.

Appendix 2 – Support Plan

TRANSITIONING SUPPORT PLAN

This is a template support plan. Depending on your circumstances, one or more steps may not be required. Equally, one or more additional steps may need to be considered.

The process of drawing up this action plan should be led by the employee and no action must be taken without the agreement of the employee. You should ask questions, listen, and understand the needs, concerns and wishes of the transitioning employee and seek further advice as necessary to ensure the employee is effectively supported during their transition.

Previous name/title/pronouns	
New name/title/pronouns	
Role	
Line manager/point of contact (if different)	

Actions	Details	Date completed
Expected timescale		
Return to work following transition		
Consider need for temporary change to job role	Nature of change (duties/hours/location) Phased return?	
Consider need for permanent change to job role	Nature of change (duties/hours/location)	
Consider confidentiality	Who is responsible? Consider what information the employee wants disclosed (see below)	
Consider data protection	Consider lawful and specific conditions for processing Consider data protection principles e.g. data minimisation, purpose limitation What old records need to be retained (if any)? Privacy notice required? Ensure information is handled in strict confidence and in accordance with the Authority's Data Protection policy Identify which, if any, pre-transition records need to be retained	
Informing managers:	Who will tell them?	

Actions	Details	Date completed
HR business partner senior manager line manager (if not point of contact)	Will employee be there? When? Where? What will they be told?	
Informing close colleagues (add description/list of colleagues told)	Who will tell them? Will employee be there? When? Where? What will they be told? Method of communication (in person?, by email)?	
Informing other employees	Who will tell them? Will employee be there? When? Where? What will they be told? Method of communication (in person?, by email)?	
Informing third parties (e.g. suppliers, customers, clients, contractors (add description/list))* *Only where relevant	Who will tell them? Will employee be there? When? Where? What will they be told? Method of communication (in person?, by email)?	
Consider whether support and information from external organisations is required/desirable	What support? What information? What are the best organisation(s) to provide this?	
Use of facilities: toilets showers changing rooms other	Which facilities? From when? Who else needs to be aware/informed?	
Dress/uniform: Is new uniform required? Is there any expected flexibility in uniform required?	Is new uniform required? If yes, from when?	

Actions	Details	Date completed
Consider need for occupational health/employee assistance programme referral	If yes, by whom?	
Consider need for absence	How long and when? Any staff cover required?	
Consider need for ongoing support	Agree frequency and timing of meetings with the transitioning employee With whom?	
Consider if any training on transgender equality is required	If yes, for whom? Training organised and delivered?	
Identify which records and systems need to be amended to show a change of name/gender	Complete table below	

Records and systems

Changes required	Who will do this?	When?	Date completed
Internal			
OD (HR & Payroll) records			
ID/Name badge			
Email address			
IT systems (computer logins, intranet, other)			
Staff lists			
Staff rota if applicable			
Other			
External/third party			
HMRC			
Pension provider			
Payroll provider			
Qualifications/certificates			
Disclosure and Barring Service			

Meetings

Date	Comments	Actions	Date of next meeting

Medical appointments and absences

Date	Description/reason