



**KIRKLEES COLLEGE**

**Transgender Policy**

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## 1 Introduction

- 1.1 The aim of this policy is:
  - 1.1.1 to provide guidance and equip managers to meet their legal obligations under the Equality Act (2010) and the Gender Recognition Act (2004).
  - 1.1.2 to provide staff and students with a greater understanding of transgender issues and the relevant legislation, processes and good practices.
  - 1.1.3 to ensure that no existing or prospective employees, students or members of the public are subject to victimisation, discrimination, harassment or any other form of unfavourable or detrimental treatment resulting from their gender identity.
  - 1.1.4 to set out a framework for how Kirklees College will support its employees who plan to undergo, or are currently undergoing, the process of gender reassignment.
- 1.2 This policy does not anticipate every situation that might occur with respect to transgender employees, and the needs of each transgender employee must be assessed on a case-by-case basis. In all cases, the goal is to ensure the safety, comfort, and healthy development of transgender employees or gender-variant employees while maximising the employee's workplace integration and working to eliminate stigmatisation and discrimination.

## 2 Commitment to transgender equality

- 2.1 The College recognises that there are possible differences between physical sex and gender identity. The College will at no time discriminate against any person on the grounds of transvestitism, transexualism, intersex conditions or any process of gender re-assignment, begun or complete. When this policy refers to 'trans people', it has in mind people living with any of these identities. When it refers to 'gender identity', it covers both the fixed identity of people living in the gender of their birth and the more fluid identities of many trans people. The College recognises the term 'transgender' as an umbrella term and acknowledges the variants that exist within the terminology used in reference to 'transgender' and 'gender identity' (**see appendix 1 – glossary of terms**).
- 2.2 The College celebrates and values the diversity of its workforce and believes that the College will benefit from employing trans people at all levels of responsibility, thus hoping to provide role models for students that identify as trans. The College will treat all employees and students with respect and seek to provide a positive working and learning environment free from discrimination, harassment or victimisation.
- 2.3 The College seeks to prevent and eliminate all discrimination on grounds of gender identity and to foster good relations between all employees, which will act as a foundation for a working and learning environment based on ensuring equality and inclusion for all, including trans people. To this end, the

College aims to include non-stereotypical images of diverse gender identities in materials which it produces.

- 2.4 The College will seek to ensure that all staff and students including trans people have equal access to all training, development, learning programmes and facilities.

### **3 Transgender law**

#### **3.1 Equality Act (2010)**

- 3.1.1 The Equality Act (2010) lists gender reassignment as one of the 'protected characteristics' on the grounds of which people are protected against unlawful discrimination, harassment and victimisation. This applies in education, employment and the provision of goods and services.
- 3.1.2 In accordance with the Act, a person has the protected characteristic of gender reassignment if the person is proposing to undergo, is undergoing or has undergone a process (or part of a process) for the purpose of reassigning the person's sex by changing physiological or other attributes of sex.
- 3.1.3 It is not necessary for an individual to be under medical supervision, or to undertake reassignment surgery, to gain gender reassignment protection. Gender reassignment is a personal process of moving one's birth gender to the preferred or acquired gender. The legal protection commences from the point at which they first indicate their intention to transition.
- 3.1.4 It is unlawful to discriminate against someone because they are perceived to be transgender, whether or not the perception is accurate. It is also unlawful to discriminate against someone because they are friends with or associated with a transgender person.

#### **3.2 Gender Recognition Act (2004)**

- 3.2.1 The Gender Recognition Act (2004) allows trans individuals aged 18 or over to change their legal gender, and thereby be afforded recognition of their acquired gender in law for all purposes.
- 3.2.2 The GRA allows trans people who have undergone gender reassignment to obtain a Gender Recognition Certificate (GRC), upon receipt of which the individual is entitled to be issued with a new birth certificate. The Act requires applicants to satisfy the Gender Recognition Panel (a judicial body of doctors and lawyers) that:
- They have or have had gender dysphoria
  - They have lived in the acquired gender for at least two years prior to the application
  - They intend to live permanently in the acquired gender
- 3.2.3 Employment rights and protections apply to all trans people equally, regardless of whether or not they have a GRC. Employers should treat

people in accordance with their gender identity, whether or not they have a GRC and should not ask trans staff if they have one.

3.2.4 It is a criminal offence under this Act for a person who has acquired information in an official capacity, relating to a person's application for a GRC or which identifies a person with a GRC as transgender, to disclose the information to any other person.

3.3 The wide range of other legislative provision which relates to gender identity includes:

- Pensions Act 1995
- Employment Rights Act 1996
- Protection from Harassment Act 1997
- Human Rights Act 1998
- Data Protection Act 1998
- Civil Partnership Act 2004
- Marriage (Same Sex Couples) Act 2013

#### **4 Legal compliance**

4.1 The College will seek to ensure that all of a trans person's rights are met, as are every employee's rights under the relevant legislation as outlined in section 3.

4.2 The College will seek to ensure that trans members of staff have equal access to all forms of training and staff development.

4.3 The College will not discriminate on grounds of gender identity in the recruitment and selection of staff.

4.4 The College will not discriminate on the grounds of gender identity in relation to the dismissal of staff. In particular, shall a redundancy situation occur; it will ensure that gender identity and gender reassignment are not factors in the selection of those to be made redundant.

4.5 Harassment is viewed by the College as a very serious offence, which if proven may in certain circumstances lead to the dismissal of the harasser, or if an employee is harassed by a student, the expulsion of a student.

#### **5 Equality, inclusion and dignity at work for trans people**

5.1 The College seeks to ensure dignity at work for all of its employees and reaffirms this commitment for transgender staff, including those who intend to transition, are currently transitioning or who have recently transitioned into a new gender identity.

5.2 Any reports of detrimental, unlawful or transphobic behaviour towards a transgender employee, including discrimination, bullying, abuse or harassment, will be dealt with speedily and effectively by the College under

the appropriate procedure, as with any other member of staff.

- 5.3 The College will seek to investigate any claims of unlawful or discriminatory behaviour as appropriate and seeks to provide a supportive environment for those who make claims of this nature.
- 5.4 Any employee who feels they are being discriminated against, or have been subject to discriminatory behaviour on grounds of gender identity or gender reassignment by other members of staff should raise the matter under the relevant Grievance or Dignity at Work procedure. Where such allegations are founded, these will be treated as a serious disciplinary offence.
- 5.5 Any discriminatory or unlawful behaviour directed towards College staff by students will be dealt with under the student disciplinary procedure.
- 5.6 Training, information and support will be offered to all staff as a means of increasing understanding of the diversities of transgender people and raising awareness of the barriers they face.
- 5.7 The College recognises that natural curiosity should not override sensitivity and respect. Therefore, where members of staff have questions about a trans employee, their experiences or about trans issues in general, we will seek to ensure they are directed to reputable resources.
- 5.8 The College will treat any member of staff in accordance with their gender identity. We acknowledge that language is personal and will respect any preference trans individuals may have for terminology, titles or pronouns used.

## **6 Support for trans people**

- 6.1 Kirklees College is committed to the provision of support, facilities and assistance for any member of staff who is currently undergoing gender reassignment. The College recognises that the process of transitioning can be an extremely difficult one, and endeavours to ensure that all reasonable requests to make this process easier are accommodated wherever possible.
- 6.2 This policy applies at any stage of the transition period and to any transgender employee. The College commits to supporting the individual needs of a trans employee prior to, during and after a period of transition, as well as supporting and respecting the wish of a trans employee to live with another gender identity, whether or not they intend to undergo the transition period.

### **6.3 Managing the transition**

- 6.3.1 Any employee who intends to transition genders has the right, if they wish, to request a meeting with their line manager to discuss their decision and may invite other relevant personnel to the meeting, such as a member of Human Resources, a union representative or a work colleague.
- 6.3.2 At this meeting, the line manager and employee will complete an action plan

for transitioning employees (**see appendix 3 – action plan for transgender/transitioning staff**). The plan will enable the manager and employee to document their agreement in respect of what steps need to be taken before, during and after the transition, including but not restricted to; informing colleagues/peers of the transition, returning to work after medical treatment and changing records, uniforms and IT systems to reflect the employee's new identity.

- 6.3.3 The line manager will ensure that the process is led by the employee as much as possible, listening and showing support, making sure that they adopt an approach that meets the needs of the employee and accommodating requests for anonymity where possible.
- 6.3.4 It will be agreed in the meeting where the action plan is stored and who will have access to it. The action plan will only be shared with other parties with prior consent from the employee.
- 6.3.5 The action plan will be treated as a working document to be updated and developed throughout the process. Regular review meetings will be held at an agreed frequency and at any significant stage of the process, where a review of the action plan will take place and any updates or developments will be noted.
- 6.3.6 The College reaffirms its commitment to maintaining confidentiality in any discussions that are had or requests that are received in respect of any member of staff undergoing the transition process. Permission must be obtained from the member of staff concerned before their transgender status is disclosed to any other party.
- 6.3.7 At any point during the process, the employee undergoing the transition has the right to inform colleagues of their intention to transition, or of their transgender status, and to decide how this will be done i.e. in a team meeting, one to one, via an electronic communication, or otherwise. This communication should address issues specific to the individual, such as how to address the colleague (new name, correct pronoun), how to support the colleague and how to deal with questions from outside the team without breaching confidentiality, as well as general awareness-raising, and should be received by its recipients in a manner of inclusion and support.
- 6.3.8 The College will ensure any individual who is going through the transition process will receive at least the same level of support and protection from management as any other colleague. We will seriously consider and grant, where possible, any reasonable requests for time off, alternative duties and/or working at different sites.
- 6.3.9 No employee will be penalised by the College for failing to disclose their transgender status. Conversely, any member of staff transitioning should appreciate that the College cannot make reasonable adjustments for a transgender employee if they have not disclosed their status.
- 6.3.10 At the point at which the transgender employee no longer wants or needs specific support from the College, they will advise their manager accordingly

and communications will revert to the usual management interventions.

#### **6.4 Absences**

- 6.4.1 The College acknowledges that there may be a need for time off from work to access treatment pertaining to the gender reassignment process. The College will provide at least the same level of support to a member of staff returning from a break, for medical or surgical treatment relating to their gender reassignment, as with any other colleague.
- 6.4.2 Any reasonable requests, including a phased return or a temporary amendment to a working pattern, will be seriously considered and granted where possible to ensure the employee's return to work is as easy and pleasant as possible.
- 6.4.3 Absences for medical reasons or other appointments associated with the gender transition process will be recorded but not used in relation to any absence management process. Absences of this nature will be regarded as a short-term reasonable adjustment.

#### **6.5 Adjustment of records**

- 6.5.1 In line with clause 6.3.2, the employee and their line manager will agree a date at which College records will be changed to reflect their new identity as part of the action plan. This will include employee files, absence files, name badges, IT systems, certificates and payroll details, whether held electronically or as paper. No adjustment of records will be made without the prior consent of the employee.
- 6.5.2 The College will honour all Gender Recognition Certificates and will recognise all medical documents produced by any medical practitioner relating to the transition.
- 6.5.3 Employees who have disclosed their transgender status will not be asked to provide a Gender Recognition Certificate as proof of their status.

#### **6.6 Facilities**

- 6.6.1 The College recognises that a trans person is free to select the facilities that are appropriate to the gender in which they present.
- 6.6.2 The employee should agree with their line manager the point at which the use of facilities such as toilets and changing rooms should change from one gender to another. For example, when a trans person 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.
- 6.6.3 The College does not condone or tolerate any detrimental behaviour, treatment or comments towards a trans person in respect of the use of facilities. It is not acceptable to expect a trans person to use any other facilities other than those appropriate to the gender in which they present, such as a non-binary disabled toilet.

- 6.6.5 Under no circumstances should a transgender employee be expected, after transitioning, to use the facilities of their former gender.

## **7 Publication and Monitoring**

- 7.1 The College is committed to reporting its workforce monitoring data in respect of all protected characteristics, including gender reassignment, in a transparent manner and on an annual basis in line with the Public Sector Equality Duty.
- 7.2 Workforce monitoring data will be made available to access by all staff, students and members of the public as embedded into the College's Annual Equality & Diversity Report.
- 7.3 All staff have access to the College's equality policies, reports and monitoring statistics via an internal sharepoint.

## **8 Review**

- 8.1 The College will review this policy on a regular basis to ensure good practice is maintained and to ensure the policy is appropriate, relevant and in line with any regulatory or legislative developments.
- 8.2 The College undertakes to consult with the relevant stakeholders on any reviews of, or changes to this policy, including trade unions and employee representatives.
- 8.3 The College seeks to ensure that an equality impact assessment is conducted on all new policies and procedures, to identify any potential risk of discrimination and to ensure that monitoring and positive action processes are fit for purpose.
- 8.4 This guidance should not be read in isolation, but cross referenced with other College policies and procedures.

## **Appendix 1: Glossary of terms**

### **Acquired gender**

The new gender of a person who has had their gender reassigned and/or legally recognised.

### **Bigender / bi-gender**

Literally translates as 'two genders' or 'double gendered'. A gender identity that includes any two gender identities and behaviours, possibly depending on context. Some bigender individuals express two distinct "female" and "male" personas, feminine and masculine respectively; others find that they identify as two genders simultaneously.

### **Cisgender**

A person whose self-identity conforms with the gender that corresponds to their biological sex; not transgender.

### **Cross-dresser**

A person who wears the clothes usually expected to be worn by someone of the 'opposite' gender. Other terms include 'transvestite' (now becoming a dated term and disliked by some) and 'dual role'. A cross-dresser is unlikely to have a full-time identity as a member of their cross-dressed gender and typically does not seek medical intervention.

### **Gender**

The majority of people have a gender that accords with their anatomical sex.

Gender consists of two related aspects: gender identity, which is a person's internal perception and experience of their gender; and gender role, which is the way that the person lives in society and interacts with others, based on their gender identity.

Gender is less clearly defined than anatomical sex, and does not necessarily represent a simple 'one or the other' choice. Some people have a gender identity that is neither clearly female nor clearly male. For the purpose of the law, however, people can only be male or female.

### **Gender binary**

A binary system allows only two things or states – for example, on/off. In terms of gender, it refers to the either/or categories of male/female that do not allow for, or recognise, other experiences of gender.

## **Gender dysphoria**

A person with gender dysphoria may feel that they have a gender identity that is different from their anatomical sex. As a result, they may experience anxiety, uncertainty, or persistently uncomfortable feelings about their birth gender.

## **Gender expression**

An individual's characteristics and behaviours (such as appearance, dress, mannerisms, speech patterns, and social interactions) that may be perceived as masculine or feminine.

## **Gender identity**

A person's sense of self as a man, woman, non-binary person or other sense of gender. A person's gender identity is typically expected to follow directly from the anatomical sex they were assigned at birth, but where a person is transgender, they may identify with a gender different to that assigned to them.

## **Gender reassignment**

A process which is undertaken under medical supervision for the purpose of reassigning a person's sex by changing physiological or other characteristics of sex.

## **Gender Recognition Certificate**

A certificate issued under the Gender Recognition Act (2004) which enables trans people to have their acquired gender legally recognised and to obtain a new birth certificate.

## **Intersex**

A person who is born with sex characteristics that are not easily classified as what is considered clearly male or female; this could be because of genitalia, chromosomes, hormonal make up)

## **LGBT**

A common abbreviation which refers to the lesbian, gay, bisexual and transgender community. LGBTQ is also often used where Q refers to individuals questioning their sexual orientation or gender identity.

## **Mis-gendering**

The use of a pronoun or a form address which does not correctly reflect a person's gender identity.

## **Non-binary person**

A person who does not adopt the binary approach to gender and who may identify as both male and female or neither male nor female, or another form of gender identification.

## **Polygender**

Literally translates as 'many genders'. Polygender people experience multiple gender identities, either simultaneously or varying between them. These can be male, female and/or any non-binary identities.

## **Real life experience (RLE)**

The real life experience (RLE) is where transgender individuals live in the gender role they identify with, for a period of time. This is to confirm that the individual wants to live in their preferred gender on a permanent basis, and that they can do so successfully as part of society. A documented RLE is a requirement of most surgeons before performing gender reassignment surgery.

This is also known as the Real life test (RLT).

## **Transition**

For a transgender individual, this is the journey from the gender you were assigned at birth (anatomical sex) to the gender you identify with. This does not necessarily have to involve gender reassignment surgery, it could be a social transition, such as changing your name, clothes etc.

## **Transsexual person**

A person who through the use of hormones and surgery takes on the characteristics of the opposite sex and lives permanently in the gender role appropriate to that sex, without the medical intervention of gender reassignment surgery.

## **Transgender person**

A person with gender dysphoria who feels a consistent and overwhelming desire to live their life in the gender that is opposite to that assigned them at birth.

## **Trans**

A generic/umbrella term generally used by those who identify themselves as transgender. The term should only be used as an adjective.

## **Appendix 2: Pre-employment checks**

The College, as an institution of further education, is required to conduct a number of pre-employment checks which must be in place and deemed satisfactory before a new recruit may commence in post. These include DBS clearance, references, proof of right to work in the UK and proof of relevant qualifications.

### **DBS clearance**

The Disclosure and Barring Service (DBS), formerly the Criminal Records Bureau (CRB) must be aware of an individual's previous legal identity in order for the checks to take place. Without the disclosure of someone's transgender status, the DBS would have no record of an individual's identity and would therefore be unable to perform its role.

However, there is now a process in place which allows transgender individuals to facilitate their DBS check without the need to disclose their status to their employer. This involves a separate applications procedure led by the DBS sensitive applications line, which allows the check to be carried out against both the current and former identities held by the individual.

It should be noted that where a conviction or other relevant information has been recorded in a previous name, as with Enhanced DBS checks required by the College, this will be revealed on the Disclosure and as such, details of any previous identity may be revealed.

Trans applicants wishing to utilise this separate procedure should contact the Disclosure and Barring Service directly for further details.

### **References**

The College seeks to obtain at least one reference from a previous employer before a new recruit is able to start work. We undertake to maintain confidentiality and respect the privacy and anonymity of any individual who discloses their transgender status, either at application or any other stage of their career with the College.

In responding to reference requests for previous or current employees where the name of the employee has changed, to reflect a new gender identity, the College will attempt to contact the individual directly to obtain permission to provide a reference and to ensure care is taken in the use of the correct pronouns.

The College will not disclose any information relating to the employee which may reveal their transgender status, such as previous absences for medical treatment relating to gender reassignment, without prior permission from the employee.

### **Proof of right to work in the UK**

Employees are required to evidence their right to work in the UK before they can commence employment with the College. This includes documentation such as a passport or a birth certificate, which in some cases may be held in the name of the individual's former identity.

Any sensitive documents or information will be retained by the College's HR department confidentially and securely. This will not be made available to anyone else without express consent from the relevant employee.

Where an individual has undergone the gender transition process and has obtained a Gender Recognition Certificate (GRC), they can apply for a new birth certificate to reflect their acquired gender. Individuals will never be asked to produce a GRC to evidence their transgender status but may wish to provide one to the College, in which event this will be stored with the same level of security and confidentiality applied to any personal data.

### **Proof of relevant qualifications**

Individuals may be asked to evidence qualifications pertaining to their role, such as a teaching or professional qualification. At the very least, the College's Skills for Life strategy requires the majority of new staff to evidence a minimum level 2 qualification in maths and English.

Employees who have undergone gender reassignment may hold certificates in their former name. Where these are provided to the College, as with any other personal data, they will be retained securely and confidentially and will only be made available to others with prior consent from the employee.

### Appendix 3: Action plan for transgender / transitioning staff

#### Transgender / transitioning staff

This action plan is a useful document for a manager and their employee to use, where the employee has disclosed that they are currently undergoing gender reassignment, or they intend to transition genders. This should be completed with co-operation from both parties and in a confidential manner, where there is opportunity for further discussion.

This discussion should be led by the individual as much as possible. This plan forms an agreement between the manager and the employee of the steps that need to be taken before, during and after their transition. This should not be viewed as a fixed document, but should be updated and developed at regular intervals, in review meetings.

You will need to agree between you where this document is stored and who has access to it.

#### Key information

<b>Your new name</b>	
<b>When will this take effect from?</b>	
<b>Name of line manager</b>	
<b>Name of colleague/union representative acting in supportive capacity</b>	
<b>Medical contact (name/address/ telephone number)</b>	

#### Details of meetings held

<b>Date</b>	<b>Comments (e.g. support offered, plans made)</b>	<b>Actions</b>	<b>Date of next meeting</b>

## Medical appointments/absences

Dates	Reason for absence	Return to work date

## Communication

This will help to keep track of who in the organisation needs to know about the individual's transition, when they will be informed and how this will happen. As with all other sections of this action plan, this discussion should be led by the individual.

Consider members of staff who may need to be informed, or who it would be useful to inform, such as your HR Business Partner, Team Leader/Head of Department, immediate colleagues, clients. It is important to remember that this will be one of the biggest steps in the individual's transition, so they should be completely comfortable with the plans made.

Who needs to know?	Who will inform them?	How?	When?

## After the transition

Where employees have undergone gender reassignment, or have transitioned genders, returning to work or resuming their new identity can be one of the most difficult parts of the process. It is important to discuss how this will happen, so that the employee is comfortable taking this step in their transition.

Discussion points could include:

- When will this be?
- Are you ready?
- Is your wardrobe/uniform ready?
- Are colleagues ready?
- Has everyone identified above been informed?
- Are there any further discussions you wish to have?
- Additional support for you and/or loved ones?
- Any media concerns?

More practical aspects to the transition, such as changes to employee systems or databases, should also be discussed. Below are some suggestions.

	<b>Who will do this?</b>	<b>When?</b>	<b>Date completed</b>
<b>ID badge</b>			
<b>Business cards</b>			
<b>IT systems (e.g. employee database, phone book)</b>			
<b>Voicemail</b>			
<b>E-mail signature</b>			
<b>Intranet/database address entry</b>			
<b>Organisational chart/structure</b>			
<b>Work-based social media</b>			
<b>Union membership</b>			
<b>Pensions scheme</b>			
<b>Uniform stores data</b>			
<b>Certificates/awards</b>			