

Gender Identity and Gender Expression - Guidance and information for all staff



**Belfast  
City Council**

**Gender Identity and Expression**

**Guidance and information for managers and staff**

**(including information on what you can do to support a member of your team /  
colleague who is transitioning)**

**Draft 8 February 2022**

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## **1 Introduction - Our commitment to equality**

- 1.1 Belfast City Council celebrates and values the diversity of its workforce and is committed to promoting equality, diversity and good relations in everything it does.
- 1.2 The Council recognises that staff who are able to be themselves in work are more likely to enjoy going to work, feel included, and can achieve their full potential. As an inclusive organisation, the Council is committed to the health, well-being and dignity of all our staff, regardless of their gender identity and expression. The Council strives, through this policy and guidance and other relevant workplace policies (including our Equality Opportunity Policy and our Grievance and Disciplinary Procedures) to create an environment where all our employees are engaged, happy and productive. We will not tolerate discrimination, victimisation or harassment on the basis of any grounds, including a person's transgender status, gender identity or gender expression.

## **2 Aims of this guidance**

- 2.1 The aim of this guidance is to make clear Belfast City Council's commitment to creating an inclusive workplace for transgender, trans, non-binary and gender diverse people, where:
- The dignity and respect for transgender, trans, non-binary and gender diverse people is protected and promoted.
  - Transgender, trans, non-binary and gender diverse people feel safe and comfortable to express their gender identity.
  - Transgender, trans, non-binary and gender diverse people can fulfil their potential and fully contribute to the workplace.
  - All staff including line managers and managers generally better understand the needs of transgender, trans, non-binary and gender diverse staff and are empowered to support and meet their needs.
  - Discrimination and harassment against transgender, trans, non-binary and gender diverse people whether by staff or third parties that BCC interacts with is not tolerated and any allegations thereof are dealt with in an effective manner.

### **3 Legislation**

3.1 We remain fully committed to promoting equality of opportunity, in line with Section 75 of the Northern Ireland Act 1998, as well as our other legal obligations (including under the Sex Discrimination (Gender Reassignment) Regulations (Northern Ireland) 1999, the Gender Recognition Act 2004, Data Protection Act 2018, the Human Rights Act 1998 and our obligations as a service provider under the Sex Discrimination (Amendment of Legislation) Regulations 2008).

#### 3.2 Protections in law

The Sex Discrimination (Gender Reassignment Regulations) (Northern Ireland) 1999 provide protections prohibiting unlawful discrimination, harassment and victimisation of persons on the grounds of gender reassignment. This applies to employment, education (including higher education). The Sex Discrimination (Amendment of Legislation) Regulations 2008 provide similar protections in the provision of goods and services.

The protection from unlawful discrimination, harassment and victimisation is available to all individuals who intend to live their lives permanently in the opposite gender from their gender at birth.

There is no need for the individual to be under medical supervision or intend to undertake reassignment surgery to benefit from the legal protections.

#### 3.3 Gender Recognition Act 2004

The Gender Recognition Act (GRA) enables people aged over eighteen to gain full legal recognition for the gender in which they live. Applications are considered by the Gender Recognition Panel. Once a person receives a Gender Recognition Certificate (GRC), they are legally of that gender for every purpose and have all the rights and responsibilities associated with that gender.

Employment rights do not depend on whether a person has a Gender Recognition Certificate. We will not ask for a person's GRC and it should never be a pre-condition for transitioning at work.

The Gender Recognition Act gives anyone applying for or holding a Gender Recognition Certificate particular privacy rights. There is legal protection of confidentiality with regard to ownership of a Gender Recognition Certificate, so that none has the right to request sight of another's GRC. It is a criminal offence to pass on information acquired 'in the course of official duties' about someone's gender recognition, without the consent of the individual affected. 'Official duties' include employment, trade union representation or supply of business or professional services. Applicable legislation in this area is set out at Appendix 2 which will be updated from time to time to reflect any legislative changes.

While this guidance focuses on how employees are protected in terms of their gender identity and expression it's important to make clear that employees are also protected from discrimination, bullying or harassment on the grounds of their race, disability status, sexual orientation and any other aspect of their identity which is protected under any anti-discrimination legislation. We recognise that employees can experience such discriminatory behaviours as a result of multiple aspects of their identity.

### 3.4 Gender Reassignment

A decision to undertake gender reassignment is made when an individual feels that his or her gender at birth does not match their gender identity. This is called 'gender dysphoria' and is a recognised medical condition.

Gender reassignment refers to individuals, who either:

- Have undergone, intend to undergo or are currently undergoing gender reassignment (medical and surgical treatment to alter the body).
- Do not intend to undergo medical treatment but wish to live permanently in a different gender from their gender at birth.

'Transition' refers to the process and/or the period of time during which gender reassignment occurs (with or without medical intervention).

Not all people who undertake gender reassignment decide to undergo medical or surgical treatment to alter the body. However, some do and this process may take several years. Additionally, there is the process mentioned above by which a person can obtain a [obtain a Gender Recognition Certificate](#), which changes their legal gender.

## 4 Language and Key Terms

4.1 In this guidance we use a range of terms, some of which may not be familiar. There is no universal agreement on definitions of terms, neither – first and foremost – amongst individuals themselves, nor amongst groups within the sector, nor amongst researchers. Below, we seek to define the terms we use. We do not intend to offend nor challenge the self-identification of individuals in any way.

4.2 We will keep our use of terms under review as the terminology continues to evolve. What's important to understand is that this guidance is primarily focused on:

- **Gender Identity:** a person's innate sense of their own gender, whether male, female or something else, which may or may not correspond to the sex they were assigned at birth.
- **Gender Expression:** how a person chooses to express their gender, within the context of societal expectations of gender.

4.3 For the purpose of this guidance we use the term 'transgender' to denote those who intend to transition, are transitioning or have transitioned.

4.4 Transition refers to the steps a person may take to live in the gender identity with which they identify.

4.5 Each person's transition will involve different things. For some this involves medical intervention, but not all transgender people want or are able to have this.

Transitioning also might involve things such as telling friends and family, dressing differently and changing official documents.

- 4.6 We refer to 'non-binary' people as those whose gender identity falls outside the gender binary of male or female. This includes individuals whose gender identity is neither exclusively male nor female, a combination of male and female or between or beyond genders.
- 4.7 The language used in the context of gender identity and expression is diverse. We recognise that individuals describe their gender identity in different ways and that the use of some terms is controversial and contested. For the purposes of this guidance, we will use the terms transgender, trans, non-binary and gender diverse. (See Appendix 1 Glossary of Terms)
- 4.8 A more detailed glossary of gender identity and expression terms can be found at Appendix 1 and this will be updated from time to time to reflect any future developments in terminology. The terminology, appropriate language and pronouns used in this area are constantly evolving. To assist managers and staff increase their understanding of language, they may wish to refer to a wider [glossary of terms](#) provided by Stonewall, which is regularly updated, reflecting the fluidity of associated language and the rapid pace at which understanding is developing.

## **5 Purpose and scope**

- 5.1 Transgender, trans, non-binary and gender diverse individuals frequently face discrimination and prejudice simply because of their gender identity and / or expression and the stigma associated with their difference.
- 5.2 We believe that there are a number of benefits for both our organisation and our transgender, trans, non-binary, and gender diverse individuals in having a policy in place:
- 5.3 Benefits for the individual:
- promotes a welcoming environment free from fear, intimidation, harassment/bullying, allowing everyone to live freely and authentically;
  - fosters feelings of inclusion and a positive workplace culture;
  - demonstrates a duty of care;
  - increases motivation and job satisfaction; and
  - supports career development and progression.
- 5.4 Benefits for the organisation:
- promotes an open, accepting and diverse place for everyone to work and be valued;
  - improves performance and productivity of transgender, trans, non-binary and gender diverse staff, recognising the value of their contribution;
  - enhances organisational reputation including in the labour market as a progressive employer;

- reduces risks of high staff turnover and litigation; and
  - ensures that Belfast City Council gains maximum contribution from content and productive employees.
- 5.5 We aim to provide a supportive environment for transgender, trans, non-binary and gender diverse staff and to create a culture and environment where all our staff are able to thrive. Our Transitioning at Work FAQs document provides detailed guidance and support for staff during any period of transition and for staff who are non-binary.
- 5.6 We recognise that identity and expression are distinct from one another. Any gender identity may express itself in a variety of ways. Some members of staff may have particular needs in terms of their gender identity but may not have transitioned, are not transitioning or do not intend to transition, nor consider themselves to be non-binary. If any member of staff feels that they require any additional support that is not detailed here or in the documents cited above, they can discuss this with their line manager, departmental HR Manager or Corporate HR.
- 5.7 This guidance applies to all Council employees. The Council will also take all reasonable steps to support all agency assignees who are placed in Belfast City Council.

## **6 Transitioning at Work**

- 6.1 A decision to transition is not taken lightly. At minimum, it can be a great improvement to an individual's quality of life, it can have a positive effect on mental health and well-being and, on occasion, it can even be a life-saving choice. Although not always the case, the decision to transition may be as a result of repression and gender dysphoria. Whatever the reason, colleagues should be supported during and after their transition. Where a colleague discloses that they intend to transition to their affirmed gender, Belfast City Council will aim to make this process as smooth as possible. Managers should be aware that this can be an extremely difficult albeit rewarding step for a colleague to take and Belfast City Council is committed to reassuring all staff that they will be supported and respected.
- 6.2 If you are a manager of someone who is going to transition, Appendix 3 provides detailed guidance on what you need to do to support them in the workplace.

## **7 Discrimination**

- 7.1 Belfast City Council has a zero-tolerance approach towards discrimination and harassment based on gender identity, gender expression or gender history. Inappropriate behaviour or language may constitute discrimination, harassment, bullying or victimisation. Managers are responsible for taking timely action where potential misconduct occurs on the grounds of an employee's gender identity, in line with Belfast City Council's Disciplinary and Grievance Procedure or the Policy and Procedures for Protection from Workplace Violence and Abuse where violence and abuse by members of the public has been experienced.
- 7.2 A colleague should never be removed from a public facing role on the basis of their gender identity and or expression and this should only ever happen if it is in

accordance with the wishes of the individual and/or to support them either on a temporary basis during their transition, or permanently thereafter.

- 7.3 In all aspects of their lives, transgender / trans colleagues live with the potential of transphobic attacks on a daily basis. In public facing workplace roles, managers should also be aware of a risk from members of the public towards a colleague, or of members of the public refusing to deal with a transgender / trans person. Should such events occur, they should be managed in the same way as any other request to deliberately discriminate against a member of staff and the request should therefore be refused. Any inappropriate or discriminatory behaviour from a member of the public, or anyone else, will be deemed unacceptable conduct by Belfast City Council.

[Disciplinary and Grievance Procedure](#)

[Workplace Violence and Abuse Policy](#)

## **8 Personal attire/uniforms**

- 8.1 All employees are required to comply with relevant dress codes according to their role. Transgender, trans, non-binary and gender diverse colleagues should comply to dress codes in a way that reflects their gender identity and/or expression.

## **9 Single Sex Facilities**

- 9.1 Single sex facilities may be a cause for concern for an individual transitioning and also amongst other colleagues within the workplace and it is important that it is managed with sensitivity and understanding for all concerned, to achieve an accommodation that works for all those who use the facilities.
- 9.2 Within the Belfast City Council estate, facilities are usually provided on the basis of female, male and accessible. Transitioning colleagues who have agreed with a manager they deem appropriate, that others can be informed of their intention to live in their affirmed gender, will use the facilities which best match their affirmed gender identity. The manager should inform others in a timely manner that the transitioning colleague has disclosed their intention to live in their affirmed gender and as such will begin to use the facilities which best match their affirmed gender identity. The legal position is clear that, whenever a person begins to live permanently in their affirmed gender, they should be permitted to use the facilities allocated to that gender.
- 9.3 Managers are expected to support the transgender / trans colleague's rights on this issue and may do so by dealing with unreasonable behaviour through communication, discussion, education and adherence to Belfast City Council's diversity and inclusion values.
- 9.4 To meet the needs of all staff, management may consider if all facilities have to be gender specific, as it may be possible, with the support and agreement of the local management and premises team, that some facilities are allocated as 'gender neutral', 'toilets for everyone' or 'accessible to all'. However, whether this is possible or not, trans people should be able to use the facilities allocated to their affirmed gender.
- 9.5 Some posts may also require the use of showers / changing facilities and the legal position regarding changing facilities is as that for toilet facilities. The Council will



examine options for incorporating gender neutral facilities in Council assets and future capital projects.

## **10 Recruitment**

- 10.1 Colleagues who have already transitioned have no obligation to disclose their gender history. Job applicants and interviewees will not be asked their gender identity during the recruitment and selection process other than when they complete the initial confidential Equal Opportunities Monitoring Form (This Equal Opportunities Monitoring Form is removed from the Application Form prior to review by any BCC selection panel and the information contained therein is strictly managed and controlled in accordance with the Code of Practice on Monitoring as agreed with the Trade Unions). Neither is there any obligation for a transgender / trans person to disclose this as a condition of employment. If they choose to disclose, this is not in itself a reason for not offering employment and non-disclosure or subsequent disclosure will not be grounds for dismissal. BCC selection panels and appointing officers who become aware that an applicant is transgender / trans will maintain full confidentiality in relation to this.

## **11 References**

- 11.1 Where a reference request is received for an existing employee who has transitioned Belfast City Council will respect the employee's privacy and only respond using the employee's correct name and gender in the reference.
- 11.2 Disclosure on sickness absence (if provided) will not include time taken off for appointments related to transitioning. This information is strictly confidential and managers must be very careful in relation to any record keeping.
- 11.3 When Belfast City Council requests a reference, they will make the request using the respective employee's correct name and gender since transitioning as they have stated they wish to be known on the Application Form. They will not mention previous names or gender identity unless specifically asked to do so, in writing, by the transgender / trans applicant.

## **12 Training**

- 12.1 All Belfast City Council staff and managers are regularly made aware of their equality, diversity and inclusion responsibilities including those around gender identity and expression through a series of training programs. It may be necessary to arrange additional bespoke training when a colleague is transitioning and more information on this is available from Corporate HR. However, managers should be led on whether the transgender / trans colleague deems the training necessary or not. The timing of any training should also be carefully planned so as not to compromise any on-going confidentiality issues.

## 13 Procurement

- 13.1 Goods and service providers contracted by Belfast City Council will comply with all applicable fair employment, equality of treatment and anti-discrimination legislation, and shall use their best endeavours to ensure that their employment policies and practices and delivery of services required for Belfast City Council have due regard to the need to promote equality of treatment and opportunity.

## 14 Review

- 14.1 It is not possible to outline everything that may need to be considered by managers as each colleague's transition will be unique to them and issues may arise which are not accounted for in this guidance. Additionally, this area is constantly evolving and as such this guidance will be regularly reviewed.

## 15 Further Guidance

- 15.1 If you have any queries related to this guidance or would like to discuss an issue not included above or covered by other HR policies, please contact the HR Manager, Corporate HR in confidence at 02890 270571 or on Ext. 3226.

- 15.2 In addition to the support available within Belfast City Council there are a range of organisations based in NI which help and support transgender and trans people, including; Focus: The Identity Trust, GenderJam, SAIL NI, The Rainbow Project and TransgenderNI.

- **[www.genderjam.org.uk](http://www.genderjam.org.uk)** is a charity run by and for the young transgender community in Northern Ireland, based in Belfast and Newry. They also provide individual support for young people experiencing difficulty with housing, education, healthcare and other issues that affect the Transgender community in the region.
- **[www.rainbow-project.org](http://www.rainbow-project.org)** is a health organisation that works to improve the physical, mental & emotional health and well-being of lesbian, gay, bisexual and / or transgender people in Northern Ireland.
- **[transgenderni.org.uk](http://transgenderni.org.uk)** is the hub of information for transgender, trans, non-binary, questioning and intersex people and those who support them across Northern Ireland.
- **Focus: The Identity Trust** exists to provide support to transgender and intersex people and their families. Members have been delivering targeted support, education and awareness training since the early nineties. Since 2011, we have been lobbying government locally, nationally and throughout Europe to achieve equal rights in healthcare, education, employment, housing and the judiciary in every aspect of life. We have helped to develop guidance and policy for organisations, employers, housing organisations, healthcare, educational bodies and others, assisting organisations to

stay in line with current equality legislation and work toward best practice. We achieve this by working collaboratively and in partnership with other organisations.

Key objectives include to increasing social inclusion, reducing social isolation and providing services to develop self-esteem of individuals and empower them to be valued members of society.

Charity number: NIC100557

Email: [focustheidentitytrust@gmail.com](mailto:focustheidentitytrust@gmail.com)

- **sailni.com** is a support organisation for the families of transgender / trans and gender variant people in Northern Ireland. It directly supports families across the region, as well as advocating for transgender people and their families at a regional, national and European level.

## **APPENDIX 1 - Glossary of Terms**

There is no universal agreement on definitions of terms, neither – first and foremost – amongst individuals themselves, nor amongst groups within the sector, nor amongst researchers. Below, we seek to define the terms we use. We do not intend to offend nor challenge the self-identification of individuals in any way.

We will keep our use of terms under review as the terminology continues to evolve.

### **Affirmed Gender:**

may be used to describe the post transition gender role. Transgender people do not acquire a new gender identity, they are affirming their inner, core gender identity.

### **Cisgender (Cis):**

when one's gender identity matches the gender assignment given at birth. This is used to describe anyone who is not transgender or non-binary.

### **Gender binary:**

the classification of sex and gender into two distinct and disconnected forms of masculine and feminine.

### **Gender dysphoria:**

medical term for deep-rooted and serious discomfort or distress because of a mismatch between a person's biological sex and gender identity; overwhelming desire to live in a different gender to that assigned at birth.

### **Gender expression:**

a person's external gender-related behaviour and appearance, including clothing.

### **Gender Identity and Expression Spectrum:**

The continuum, range and diversity of gender identity and expression between and beyond male and female.

### **Gender fluid:**

having a gender identity which varies over time.

**Gender identity:**

a person's deeply felt internal and individual experience of gender, which may or may not correspond to the sex assigned to them at birth.

**Gender Recognition Certificate:**

issued by the Gender Recognition Panel – signifies full legal rights in affirmed gender and allows the issuing of a replacement birth certificate.

(NB employment rights do not depend on whether a person has a Gender Recognition Certificate)

**Gender diverse / variance / nonconformity:**

gender expression that does not match society's norms of female and male nor is determined by physical sex, genitalia. Gender diverse / variance / nonconformity is behaviour or gender expression by an individual that does not match masculine and feminine gender norms. People who exhibit gender variance may be called gender variant, gender non-conforming, gender diverse, or gender atypical, and may be transgender or otherwise variant in their gender identity. Some intersex people may also exhibit gender variance.

**Intersex person:**

The usual definition of intersex refers to individuals born with both sex characteristics (including genitals, gonads and chromosome patterns) that do not fit typical binary notions of male or female bodies.

Intersex is an umbrella term used to describe a wide range of natural bodily variations. In some cases intersex traits are visible at birth while in others, they are not apparent until puberty. Some chromosomal variations may not be physically apparent at all.

The Intersex Society of North America stated 1/2000 live births are born with some form of physically atypical genitalia. Accurate data is limited although we are aware that there are at least 4500 cases in the UK.

**Legal sex:**

The sex recorded on your birth certificate or gender stated on a Gender Recognition Certificate Rarely relevant at work. Currently binary in the UK. Changed by applying to Gender Recognition Panel.

**Misgendering:**

Misgendering occurs when you intentionally or unintentionally refer to a person, relate to a person, or use language to describe a person that doesn't align with their affirmed gender. For example, referring to a woman as "he" or calling her a "guy" or referring to a man as "she" is an act of misgendering.

**Non-binary person:**

a person who does not identify as solely male or female. They may identify as both, neither or something entirely different.

**Real life experience:**

The real-life experience (RLE) is a period of time in which transgender individuals live full-time in their affirmed gender role and can be required to access gender affirming healthcare. More information on gender affirming care can be found at:

**Sex:**

The sex of a child is presumed entirely by the external genital appearance at birth.

**Sexual orientation:**

A person's sexual attraction to other people, or lack thereof. Along with romantic orientation, this forms a person's orientation identity. Sexual orientation is an entirely separate issue from gender identity. Many people confuse the issues of sexuality and gender. But transgender individuals, just like everyone else, may be orientated towards people of any and all genders, including men, women, both or neither. Therefore, the sexual orientation of transgender individuals can be heterosexual, gay, lesbian, bi or any other sexual orientation. Their sexual and / or romantic orientation may remain the same through the transition process, or they may change.

**Transgender person:**

Someone who intends to transition, is transitioning or has transitioned. For example, a transgender man is someone who was assigned female at birth but identifies and lives as a man. A transgender woman is someone who was assigned male at birth but identifies and lives as a woman.

**Trans:**

Trans can be used as an umbrella term to describe people whose gender is not the same as, or does not sit comfortably with, the sex they were assigned at birth. Trans people may describe themselves using one or more of a wide variety of terms including (but not limited to) transgender, transsexual, gender-queer (GQ), gender-fluid, non-binary, gender-variant, crossdresser, genderless, agender, nongender, third gender, two-spirit, bi-gender, trans man, trans woman, trans masculine, trans feminine and neutrois. The use of trans as an umbrella term may not be acceptable to all transgender people.

**Transsexual person:**

While it is the opinion of some that this term is now considered to be outdated, it is a legal / medical term for someone who lives (or wishes to live) permanently in the 'opposite' gender to that assigned at birth.

**Transvestism:**

This term is rarely used and should only be used on the request of an individual.

There are two types of Transvestism; neither involves any desire by the individual to permanently change their gender. Not to be confused with the term transsexual, this belongs under different separate medical conditions within ICD-11 classifications:

A transvestite is a person who chooses to dress and adopt the social role of the opposite sex.

**Transition:**

A process through which some transgender people begin to live as the gender with which they identify, rather than the one assigned at birth. Transition might include social, physical or legal changes such as disclosing to family, friends, co-workers and others; changing one's appearance; changing one's name, pronoun and sex designation on legal documents (e.g. driving licence or passport); and medical intervention (e.g. through hormones or surgery).

## APPENDIX 2 - Relevant Legislation

**Please note:** This section references specific legislation and, although the terminology is now considered outdated, the language used below reflects that of the legislation. More up to date and inclusive terminology has been used elsewhere throughout this document.

### **Sex Discrimination (Northern Ireland) Order 1976 as amended by:**

- **Sex Discrimination (Gender Reassignment Regulations) (Northern Ireland) 1999**

The **Sex Discrimination Gender Reassignment Regulations (Northern Ireland) 1999** extended the **Sex Discrimination (Northern Ireland) Order 1976** to make it unlawful to discriminate on grounds of gender reassignment in employment and training. It is unlawful to treat a person less favourably on the grounds that the person intends to undergo gender reassignment, or is undergoing gender reassignment, or has at some time in the past undergone gender reassignment. The regulations cover direct discrimination, victimisation and harassment in employment or training on the grounds of gender reassignment.

- **Sex Discrimination (Amendment of Legislation) Regulations 2008**

The **Sex Discrimination (Amendment of Legislation) Regulations 2008** amended the **Sex Discrimination (Northern Ireland) Order 1976**. It introduced protection for individuals in Northern Ireland from direct discrimination on grounds of gender reassignment in the provision of goods, facilities, services or premises.

- **Gender Recognition Act 2004**

The **Gender Recognition Act 2004** allows trans people who are able to satisfy the Act's evidential requirements to apply to a Gender Recognition Panel to seek full legal recognition. If a Gender Recognition Certificate is issued, and the person's birth was registered in the UK, they will be able to obtain a new birth certificate which does not disclose the fact that they have changed gender.

- **Sex Discrimination Order 1976 (Amendment) Regulations (Northern Ireland) 2016**

The **Sex Discrimination Order 1976 (Amendment) Regulations (Northern Ireland) 2016** extended the scope of protection in the **Sex Discrimination (Northern Ireland) Order 1976** to make indirect discrimination unlawful. This occurs where an employer applies a



provision, criterion or practice which is discriminatory in relation to gender reassignment and which cannot be justified.

- **Section 75 of the Northern Ireland Act 1998** places public authorities in Northern Ireland under a duty to have due regard to the need to promote equality of opportunity between:
  - persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation
  - men and women generally
  - persons with a disability and persons without
  - persons with dependants and persons without

(Public Authorities are also required to have regard to the desirability of promoting good relations between persons of different religious belief, political opinion and racial groups. In the rest of the UK, the characteristics pregnancy and maternity and gender reassignment are explicitly listed in the legislation. While these are not listed explicitly in the legislation in Northern Ireland, they are, in many respects, covered by other terms (for example, equality on grounds of pregnancy and maternity and gender reassignment are seen as being covered by the sex equality provisions).

**Universal Declaration of Human Rights**, although it does not explicitly mention gender identity, evolving conceptions of international human rights law include a broad interpretation to include the rights and the protection of the rights of Transgender people around the world.

**The Criminal Justice (No. 2) (Northern Ireland) Order 2004**. The PSNI defines a transphobic incident to be any incident which is perceived to be transphobic by the victim or any other person.

## **APPENDIX 3 - transitioning at work - a guide for managers and staff**

### **Privacy & Confidentiality**

While transgender, trans, non-binary and gender diverse people may be proud of their gender identity, and or expression and gender history, it may not be the first way in which they wish to be thought of or regarded. Like everyone else, colleagues have the right to privacy in all aspects of their lives. The dignity and privacy of colleagues should be respected at all times and the individual should determine with their manager what and when information will be communicated to colleagues as well as to any other stakeholders who need to be informed. Therefore, until an individual is ready to inform others, confidentiality is of paramount importance. The information shared with managers should be treated as confidential sensitive personal data, kept in line with data protection legislation and only shared when it is necessary to do so during the transition process.

At each stage of the transition, when more people need to be informed to support the individual, such as the Head of Service, each new colleague made aware of the transition should be reminded of their responsibilities in terms of sensitivity and confidentiality and made aware that, following the transition, reference to the individual by their previous name or gender is a breach of confidentiality and potentially, could amount to an unlawful data breach, as well as potentially being personally hurtful and disrespectful to the individual.

If a member of staff has transitioned before entering employment or changing job within Belfast City Council, they are under no obligation to inform management or colleagues of this and it should also be remembered that it is the legal right of any transgender / trans person not to disclose this information and to keep their gender identity and history confidential should they wish to do so. Such staff are not being untruthful or dishonest and are living their lives in the affirmed gender they identify as and want to be fully accepted in that way. Revealing someone's transgender / trans identity or history without the person's consent to do so may constitute an offence under both equality and data protection legislation. See paragraph on the Gender Recognition Act.

For those transitioning whilst in employment, there will come a time when this will have to be disclosed to managers, staff and others. In fact, this may be an essential part of the transition process, when the individual undertakes their 'Real Life Experience' in their affirmed gender role. However, until the individual has decided when that time is and how much information will be communicated to others, confidentiality is paramount. Careful management is also required in relation to the retention and disposal of all personal data collected to support a colleague through their transition.

### **Respect**

It is important that all colleagues respect everyone's gender identity. Managers and staff should treat transgender / trans colleagues how they want to be treated and respect their affirmed gender. Similarly, names and pronouns should be followed in accordance with the individual's wishes. During and shortly following the transition it is possible that some managers and staff may make a genuine mistake when referring to or addressing a colleague. If so, an apology should be offered to the individual, followed by the correct name or pronoun.

Intentionally and persistently misgendering or using colleagues' previous names could amount to harassment and will not be tolerated. Breaches of this policy will be treated in a serious manner and be dealt with under the appropriate Council policy.

In addition, some colleagues may be overly interested and overstep personal boundaries in terms of questioning a transgender colleague's potential medical or surgical interventions, their relationship status, or their family's response to their transition. When supporting the colleague through the transition it may be necessary for managers to ask personal questions to allow for and to plan time off work. However, for all others this is not necessary and it is important that other staff and managers respect the personal boundaries of the transgender colleague, as they would for any other member of staff.

## **Initial Discussion**

When a colleague discloses that they intend to transition to their affirmed gender, you may be one of the first people they have shared this information with. It's therefore important to offer an understanding and supportive response. It is important not to make assumptions on behalf of the transitioning employee, especially. Managers and other colleagues should be aware that an employee's initial expression of their intention to transition is a very important stage in the process. Employees may wish to be accompanied by a colleague, trade union representative or a member of the staff network when they first speak to their line manager.

As previously outlined, as an employer, Belfast City Council has a legislative duty to individuals who are transitioning and the manager's role is crucial in this responsibility. It is important not to make assumptions at this stage. The manager should allow the individual to explain their personal transition journey, accept that their plans may change through the transition process and prepare to be flexible in order to best meet the needs of the colleague. A suggested discussion framework and suggested Memorandum of Understanding (MOU) template is provided at **Appendix 4**.

It is the individual who is most affected by the change – not managers or other colleagues and informing a manager for the first time may be a significant step in their personal journey. Therefore, the colleague should always feel in control of both the pace and the actions agreed throughout their transition – whatever happens next, happens at a pace set by the individual.

The manager and employee will discuss the process and the employee will be given an opportunity to explain their plans and preferences in relation to informing others within Belfast City Council. This can be set out in the suggested MOU template. The MOU is intended to act as a support tool but it is in no way compulsory and should never be imposed on a colleague or shared with anyone else within the organisation without the express permission of the transgender colleague. The MOU should be signed and dated by both the manager and colleague and any amendments should be signed and dated as agreed.

Managers should consult with transgender colleagues sensitively about their needs in the workplace and whether there are any reasonable and practical steps that can be taken to help the colleague as they undergo the gender re-assignment process.

An MOU would typically include:

- The anticipated date on which the colleague will present in their affirmed gender;
- The name the colleague wishes to be known as and pronouns others should use to address them and when this will change;

- Whether the individual may wish to temporarily or permanently change roles (the operational feasibility of this will need to be considered);
- Whether there are any duties that should not be undertaken at specific times within the process;
- Whether a workplace risk assessment is necessary;
- Whether time off is required for any appointments related to transitioning, medical treatment, surgery or recovery;
- Who will be told and when and by who;
- When records will be changed and who will do this;
- Signposting to support channels within the Council, for example, Employee Counselling, the LGBT+ staff network.

The transitioning colleague should also decide when they would like to start being referred to by their affirmed name and pronouns.

The exact date of transition will depend on the transition process. However, there is likely to be a point in time when a colleague will present in their affirmed gender. Some colleagues may take leave and return to work in their affirmed gender and if so, this will facilitate the updating of workplace records, HR information and security and IT information. If no break is taken then arrangements should be made in advance, in consultation with the individual transgender / trans colleague. Managers should ensure that the transgender / trans colleague is supported, feels included and not bombarded with enquiries or intrusive attention.

The manager and colleagues will discuss the individual's preferences in relation to informing others. They will agree whether the colleague wishes to do this or whether they would prefer the manager or colleague to do this or a mixture of these options. It is helpful to get express written agreement as to when and how this will happen including details of the message to be conveyed and who it will be shared with. Managers should ensure that the individual transgender / trans colleague determines the pace and method of communication. Managers should meet with the individual regularly to discuss any concerns. Managers may seek advice from Human Resources and / or [Occupational Health](#) to resolve questions that may arise.

If the transgender / trans colleague wears a uniform for their role, managers will ensure that the colleague has access to the uniform that is most appropriate at all times. Some transgender / trans colleagues may need access to both the male and female uniforms and managers will be flexible and will support preferences of the trans person wherever possible. Transgender, non-binary, gender questioning and trans colleagues have the right to comply with any dress codes in a way that reflects their gender identity expression.

### **Absence from Work**

Legal protection provides that a transgender / trans colleague must not be treated less favourably than someone off work sick due to illness or injury. Although not always, colleagues who transition may undertake a number of medical treatments and / or surgical interventions and as a result are required to be absent from work, both to undergo treatment and to recover from it. There may be other non-medical, transition-related appointments that a transitioning employee may require and therefore need to take time off work. Although

transitioning is not a 'sickness' in itself, such absences should be managed as any other absence, using the Council's Attendance Policy.

A phased return and / or a temporary change of duties may be considered, working with the staff member to ensure they are comfortable, both with the pace of their return, and other staff members cooperation.

It is important that the manager discusses well in advance what transition-related appointments will occur with the individual including how many absences are likely during the transition process to enable adequate time to put arrangements in place and to reassure the colleague that they will be fully supported throughout the process.

### **Performance Issues**

As per any other significant change in a person's circumstances, medical treatment or surgical procedures, gender transition may have an impact on an individual's work performance. Various factors can cause this including transphobia either inside or outside of work or even not being able to access the necessary health care. Side effects from medication, treatment or surgery may also temporarily impair the abilities of an individual and it may be necessary to review current, or to conduct, a workplace risk assessment following treatment or surgery.

In such circumstances, understanding and empathetic management is required to help ensure that the individual is supported through any temporary performance issues. It may be helpful to consider if any workplace easements are required, including consideration of a temporary reduction of performance standards, to support the individual through the process.

### **Redeployment**

In some cases, it may be appropriate to consider a change in job role for a transgender colleague during transition or permanently thereafter. The need for redeployment would be assessed via the usual mechanisms and operational feasibility will also need to be considered. This will be discussed with the colleague in advance to allow time to make appropriate arrangements.

### **Updating Records**

Electronic records will be updated in a timely manner to coincide with the date in which the workplace transition begins. The manager and employee should compile a schedule of records that require amendment as part of the transition. The manager will be responsible for making sure that these records are changed. The following is a non-exhaustive indicative list of records which may need to be updated:

- Security passes;
- Name plates;
- Website / office contact details;

- IT systems;
- HR records;
- Pension records;
- Training records;
- Vetting information;

Belfast City Council will comply with GDPR and the Data Protection Act 2018 to ensure that personal data is accurate, relevant and up to date and retained only for as long as is absolutely necessary.

### **Single Sex Facilities**

Single sex facilities may be a cause for concern for an individual transitioning and also amongst other colleagues within the workplace and it is important that it is managed with sensitivity and understanding for all concerned, to achieve an accommodation that works for all those who use the facilities.

Within the Belfast City Council estate, facilities are usually provided on the basis of female, male and accessible. Transitioning colleagues who have agreed with a manager they deem appropriate, that others can be informed of their intention to live in their affirmed gender, will use the facilities which best match their affirmed gender identity.

The manager should inform others in a timely manner that the transitioning colleague has disclosed their intention to live in their affirmed gender and as such will begin to use the facilities which best match their affirmed gender identity. The legal position is clear that, whenever a person begins to live permanently in their affirmed gender, they should be permitted to use the facilities allocated to that gender. An individual does not need to be under medical supervision or have undergone surgery to benefit from this right.

Managers are expected to support the transgender / trans colleague's rights on this issue and may do so by dealing with unreasonable behaviour through communication, discussion, education and adherence to Belfast City Council's diversity and inclusion values.

To meet the needs of all staff management may consider if all facilities have to be gender specific, as it may be possible, with the support and agreement of the local management and premises team, that some facilities are allocated as 'gender neutral', 'toilets for everyone' or 'accessible to all'. However, whether this is possible or not, trans people should be able to use the facilities allocated to their affirmed gender.

Some posts may also require the use of showers / changing facilities and the legal position regarding changing facilities is as that for toilet facilities.

## **APPENDIX 4 - Creating a Memorandum of Understanding**

A person transitioning can ask that a Memorandum of Understanding be created. This is an agreement that the Council will make with the transitioning colleague to make sure that they get the rights they are entitled to, and that they feel safe and welcome as much as possible.

Information on what Belfast City Council will do is set out below.

### **A person transitioning can expect to:**

- Choose their own name and pronouns, and should expect other people to use them.
- Decide what pronouns they wish to be referred to. For example, “he”, “she”, or “they”. We will respect his, her or their pronouns, and will never deliberately use the wrong ones.
- Dress / wear the uniform which they are most comfortable in.
- Be allowed to wear the uniform which is most comfortable to them. This is also the case for non-binary staff.
- Be allowed to use the bathrooms & changing facilities they feel safest in and be able to use the male / female toilets if they wish, or be allowed access to single – stall / accessible facilities if they prefer.
- Have their privacy and right to confidentiality respected.
- Have their records match their correct details. If they change their name, lists should be updated.

A non-binary or gender diverse person may not want to be “out” to everyone in Belfast City Council and can expect the right to not have this information disclosed to other members of staff. No one will be told without their consent.

### **Example Memorandum of Understanding**

This is an agreement between x and x

It details the expectations of Belfast City Council and the rights of a transgender, trans, non-binary or gender diverse person. This is to make sure their experience is as positive as possible, and to protect their rights. This document can be used to make sure that a colleague is getting the support that they need, they can update it regularly to make sure it is up-to-date and relevant. Only certain elements of this template will apply to employees who are not transitioning.

## Review Date

This version was written on xxx and will be looked at again before xxx.

## Names and Records

<p>What to cover in this section, you should discuss:</p> <ul style="list-style-type: none"><li>• Name changes</li><li>• Pronouns</li><li>• Updating records</li><li>• Changes of name in future</li></ul>	
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## Informing Colleagues and support in affirmed gender

<p>To consider:</p> <ul style="list-style-type: none"><li>• Face to face discussions</li><li>• Co-ordinated team meetings</li><li>• Answering questions</li><li>• By email</li><li>• Who will provide moral support?</li><li>• When will it be?</li><li>• Is a change in role required?</li></ul>	
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## Uniforms, Clothing, toilets and Changing facilities

<p>To consider:</p> <ul style="list-style-type: none"><li>• What toilets the person can use</li><li>• Changing facilities</li><li>• Comfort &amp; safety</li><li>• Access to single-stall facilities if preferred</li></ul>	
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## Records and Confidentiality

<p>To consider:</p> <ul style="list-style-type: none"><li>• Updating records</li><li>• Deciding who is informed about the trans or gender variant identity, if applicable</li><li>• Deciding if and how the person wants to disclose their trans status if applicable</li><li>• Actions to consider if the person is outed without their consent</li><li>• How this document should be saved?</li><li>• Who will have access to this document?</li><li>• How long should this document be kept?</li></ul>	
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## Health and Wellbeing

<p>To consider:</p> <ul style="list-style-type: none"><li>• Access to healthcare e.g. Occupational Health</li><li>• Risk Assessments</li><li>• Counselling</li><li>• Pre-Surgery</li><li>• Surgery</li><li>• Recovery</li><li>• Hormone therapy</li><li>• Speech therapy</li><li>• Reasonable adjustments</li></ul>	
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**Action Plan**

Who needs to know?	Who will tell them (if applicable)?	When?	Date completed
Senior Manager			
HR Representative			
Line manager			
Team members			
Other colleagues			
Others (specify)			

**Changes to records**

	Who will do this (if applicable)?	When?	Date completed
HR Records			
Name badge			
IT systems including email			
Website			
Voicemail			
Internet/intranet address entry			
Pension scheme			
Certificates/awards			
Personal file and related data			
Other:			

**For the person:** I agree that this document reflects what I need, and reasonably accommodates those needs.

Print your name here: \_\_\_\_\_

Signed: \_\_\_\_\_

Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

**For Belfast City Council:** We agree that this document is appropriate to accommodate the needs of the person above, and that we will make adjustments as detailed to ensure that they are supported.

Print: \_\_\_\_\_

Position: \_\_\_\_\_

Signed: \_\_\_\_\_

Date: \_\_\_\_/\_\_\_\_/\_\_\_\_