

# Adult Social Care & Health and Children, Young People and Education

## Supporting transgender users of our services

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V3	May 2020	Updated all website links Deleted the reference to the HR document: "The recruitment and retention of transgender staff" and replaced it with: "Managing and supporting Transgender Staff in KCC – Guidance for Managers and employees Issued by HR – May 2018.
V2	Feb. 2019	Mostly updating of documents and website links: <ul style="list-style-type: none"> <li>• Policy A. 2 Updated the date of issue of "The recruitment and retention of transgender staff "</li> <li>• 3.2 clearer explanation about when it is a criminal offence to disclose details about a person's gender history</li> <li>• Appendix 2: updated information about the Equality and Human Rights Commission and about GIRES</li> <li>• Appendix 3: <ol style="list-style-type: none"> <li>a) added links to Kent's Trans Inclusion Guidance for schools and settings on The Education People (TEP) website</li> <li>b) added the Gender Identity Development Service (GIDs) under Tavistock and Portman Clinic</li> <li>c) added the BeYou site</li> <li>d) updated the ISSK link to TEP page</li> <li>e) added The Metro Centre link</li> </ol> </li> </ul>

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### With thanks to:

Dr Lewis Turner, Project Manager, Lancashire LGBT

### Note about language:

“Trans” is not deemed to be an offensive term by the transgender community and is used as an easy, inclusive shorthand term in this document.

## **A. Policy**

### **1. Key values and principles of working with all service users**

- We treat people fairly and with respect
- We work in a person-centred way (**This means that we put the individual at the heart of everything we do**)
- We support people to be safe
- We promote and support independence
- We are committed to providing safe places which are free from discrimination, harassment, violence or any other form of offensive and unacceptable behaviour.
- We do not tolerate harassment, discrimination, violence or offensive and unacceptable behaviour towards individuals on any grounds

### **2. Scope**

This guide is designed to help staff in Adult and Children Social Care to offer the best service they can to trans users of Social Care services. It is aimed at:

- all KCC Social Care staff
- commissioned and voluntary organisations in partnership with KCC who carry out care and support functions in respect of a person.

This guide seeks to complement the corporate guidance “Managing and supporting Transgender Staff in KCC – Guidance for Managers and employees Issued by HR – May 2018- and covers:

- legislation
- transgender identity
- name changes
- toilet and changing rooms
- transitioning and post transitioning support
- terminology
- external links

### **3. Legislation**

#### **3.1 The Equality Act 2010**

The Equality Act 2010 ensures legal protection against discrimination (direct or indirect) for everyone under the nine protected characteristics defined in the Act, one of which is Gender Reassignment (also known as Transgender).

In order to be protected under the Act, a person will not necessarily have to be undergoing a medical procedure to change their sex, but they must be living permanently in their preferred gender or intending to do so.

**Example:** a born female person increasingly changes their clothes to become more masculine, adopts a new style of address e.g. Pat instead of Patricia. As s/he enters his/her late teen years s/he is increasingly perceived as a man and by the time s/he is 15, Pat has gradually become Patrick. Though some neighbours know Patrick's past, Patrick is very happy with the situation in which everyone else regards him as a man. For the Equality Act 2010, Patrick is a person who has undergone gender reassignment despite never having been assessed, taken hormones, or had any surgery.

### **3.2 The Gender Recognition Act (2004) – effective from April 2005**

The Gender Recognition Act is mainly concerned with the process by which a person can get a Gender Recognition Certificate, and correct their original birth certificate to match their true gender (if their birth was registered in the UK). This can only occur after a person turns 18.

A person with a Gender Recognition Certificate has no obligation to disclose the fact, although they may need to do so in certain circumstances. These include, for instance if a:

- criminal records or safeguarding disclosure is required (though the employer would not be informed by the Disclosure of Barring Service (DBS) of the Gender Recognition Certificate)
- medical assessment is required and this involves information about surgery undergone or medication taken

Under section 22 of the Gender Recognition Act 2004, it is a criminal offence for a person in an official capacity to unlawfully disclose details about a person's gender history or to disclose their application for a Gender Recognition Certificate (GRC). Official capacity includes an employer or prospective employer.

## **B. Practice Guidance**

### **4. Transgender identity**

A Transgender person feels that their external appearance (sex) does not match up with the way they feel internally about their gender identity.

A Female to Male (FtM) person will have been assigned a female sex at birth yet identifies their gender as male; a Male to Female (MtF) person will have been assigned as male at birth yet identify their gender as female.

Note that some people will identify as non-binary which means they do not believe that there are just two genders and they exist outside of the gender binary. Some people want either more options for gender or the option not to have one at all.

### **Important:**

Gender identity and sexual orientation are completely different things.

**Gender identity** is about your innate sense of being male, female, both or other. People are assigned a gender identity at birth based on their sex characteristics.

**Sexual orientation** is a term used to describe the focus of a person's sexual attraction and desires. A person may therefore describe themselves as being heterosexual, bisexual, gay or lesbian.

You can therefore be transgender and heterosexual or gay/ lesbian/ bisexual/ asexual.

## **5. Managing specific issues**

### **5.1 Handling telephone calls**

The utmost discretion is needed when working in offices where members of the public may make incoming calls. Staff need to be alert to voices that do not match names and titles.

The main issue is likely to be associated with transgender women, (this includes young women, registered at birth as male now living as women). Many transgender women are unable to raise the pitch of their voice and treatment with female hormones has no impact on this so, particularly on the phone, their voices will sound masculine. Those taking incoming calls may jump to conclusions about the person, and say 'sir', which will be very upsetting.

Operators should listen carefully to the name, and if that doesn't give sufficient clue, or if a mistake has been made, then it is best to apologise, ask politely, 'how do you like to be addressed?' Make a note immediately of the name and matching pronouns and title, so that any ongoing conversation and future correspondence will not give offence.

## 5.2 Recording names

Accept a person's decision about their gender identity:

- respect their fundamental human right to be true to themselves
- accept that living in accordance with their core gender identity is absolutely essential for their future happiness
- use the name and pronouns that person prefers: "he" or "she", "they". You may get it wrong, apologise and try to use the correct one even when the person concerned is not present
- where a young person is under the age of 18, their wishes must be taken into account when recording any aspect of their identity on Liberi (Children and Young People client system).
- Where a young person is under the age of 18, social workers and administrative staff must ensure that all communications and current information they hold regarding the gender identity of the young person are correctly reflected.

## 5.3 Changing titles and names

Changing their name and gender identity is a pivotal point for many Transgender people. If a Transgender person wishes to have their personal data recognised on our social care systems, this needs supporting and will feed on to any communication we will have with the person

### 5.3.1 Changing titles

Most titles (such as Mr, Ms, Miss, Mrs and Mx) are not controlled by law in the UK. Anyone can change their title to any of these, or one of the many other options, without doing anything special and without any documentation. We should therefore update titles on request. People can use any title regardless of their legal gender.

Certain titles (such as Dr, Prof, Lord, Sir, etc.) are controlled by law and people cannot change their title to them unless they are entitled to use them.

### 5.3.2 Changing names

In the UK the law says that a person can change their name just by starting to use a new name (subject to parental permission if they are under 16).

As long as it is not for fraudulent reasons, there is no legal requirement for any documentation whatsoever when it comes to making a change of name and people can have as many names as they want.

In practice many organisations will not update records without seeing evidence that the person's name has changed and that they have abandoned their previous name. There are several ways to produce this evidence:

- free deed poll (or using deed poll services or deed poll enrolled with the royal court of justice)
- statutory declaration
- Royal licence

During transition, staff, in line with best practice, will discuss with the person the expected date when their names and personal details will need to be amended. After the person has successfully transitioned into their new gender role:

- if we need to keep old records, (reasons for this decision would need to be explicit and agreed by all parties concerned), then these will be kept in a locked down confidential electronic file, only accessible to named persons.

### 5.3.3 Changing names when the person requesting it is 16 or 17

A 16 or 17 year old does not need anyone's permission to change their names unless there is a court order in place that says they can't (in which case they will have to wait until they are 18). Anyone who has parental responsibility for them could ask a court to overrule it, but the court would usually allow the name change apart from in exceptional circumstances.

### 5.3.4 Changing names when the person requesting it is under 16 years old

The young person will need permission from everyone who has parental responsibility for them - even if they haven't had contact with one or all of them for years. Usually this means the people who are named on their birth certificate or adoption certificate. If they are under a care order then the Local Authority will have parental responsibility so they will have to consent. Where this is required, consent should only be made by the Service Manager in consultation with the Assistant Director who is the Delegated Authority for the child.

Where there is a shared responsibility for the Looked after Child between the parent and the Local Authority and the young person does not want the parent/s to be informed or contacted about a decision to change their gender identity, the Local Authority must always seek legal advice before giving consent.

[Mermaid: a factsheet for trans and non-binary people- changing your name and title](#)

### Important:

The trans person does not need to provide us with a Gender Recognition Certificate before we amend our records and the question about whether or not a person has a Gender Recognition Certificate is irrelevant and must never be asked.

## 5.4 Accessing toilets

Toilets and changing facilities are often deemed the most sensitive of all the issues. Concerns are that people may find themselves in vulnerable situations where they could fall victim to unwanted attention that could escalate into assault or emotional harm.

**Pre-transition** (this does not mean pre-surgery, it only means before the person lives full-time in their preferred gender):

Service users should be able to use the facilities of their preferred gender. If a service user is not comfortable with using these facilities, then an accessible toilet should also be provided.

**Post-transition** (this does not mean post-surgery, it means when the person presents full time in their acquired gender role):

Facilities such as toilets and changing rooms should be accessed according to the full-time presentation of the person in the new gender role. It is never appropriate to insist that a person who has transitioned, use only the accessible or unisex toilets unless these are the only facilities available or if they are preferred by the transgender person. If others do not wish to share the “ladies” or “gents” with a transgender person, then it is they, not the trans person, who must use alternative facilities.

## 6. Good practice tips (generic)

**a) Treat transgender people as you would all other service users whilst considering the additional sensitivities they may face**

**b) Try not to assume someone’s gender simply by their appearance**

Try not to assume you can always tell someone’s gender by looking at them or hearing their voice. Take each individual person’s lead regarding language. If someone makes it clear how they would like to be addressed in terms of their gender, especially as regards their name, pronoun and / or title, then respect those choices.

**c) Consider whether you need to ask someone's gender**

**d) Assume everyone selects the facilities appropriate to their gender**

A transgender person should be free to select the facilities (such as toilets or changing rooms) appropriate to the gender in which they present.

**e) Accept a range of ID other than a birth certificate – you do not need to see a Gender Recognition Certificate (GRC) to amend personal details**

**f) Ask those who transition whilst using your services how you can support them**

If someone transitions whilst using your services, ask the transgender person what would make them feel most comfortable at that time. It is sometimes useful to make a plan. For instance they may be ready to move to the facilities of their self-identified gender or they may wish for additional privacy at this time. Also you may decide to agree a date for the person's new name and pronoun to be used and for phone lists or registers etc. to be updated.

**g) Update documentation and records efficiently and sensitively**

A transgender person may wish to be referred to by a different name and pronoun and require their gender marker to be changed on documents and systems. The vast majority of documentation can and should be changed upon request as it simply enables you to identify a particular individual within your setting and has no other ramifications. In many instances it is not even necessary to see a formal name change document.

**h) Publicise your good practice and inclusivity to diverse groups**

Transgender people can experience difficult challenges – ranging from disappointment to outright fear and physical harm. Consequently, transgender people tend to look for clear evidence that service providers are transgender-friendly anywhere they are going, applying to, or otherwise engaging with. People may not use services or visit premises for fear of a negative response unless services make it clear they are welcome. Where appropriate, it can be helpful to include a statement of diversity values and make it visible.

**6. Specific practice tips when working with transgender children and their families**

a) Be aware of the issues being raised affecting transgender children and young people as well as the socio-political factors in the construction of gender identity and the limitations, as well as the diversity of gender expressions.

- b) Understanding that there are as many ways to be transgender as there are transgender people. While you may hear the phrase “transgender community,” it should not be taken to mean that all transgender children are identical, that they have the same experience or understanding and view of gender
- c) The child or young person may have a chosen name that they prefer. It is acceptable to ask someone what name they prefer and then to respect their wishes. Use gender-neutral language and open-ended questions during C&F assessments or interviews.
- d) Respect the child’s right to privacy about their past and their body. Looked after Children must always be asked of their views whether to share information about their new identity when parents are required to be contacted or informed
- e) Treat knowledge of a child’s transgender status as confidential.
- f) Remember that many transgender and gender non-conforming young people or children have had negative experiences with social service providers. It is not possible for you to erase this history, only to acknowledge it and work to establish trust.
- g) Be sensitive to the concerns that might be raised by the family regarding the child’s transgender status and the likely impact this might have on the child. You should ensure that both the parents are provided with information and appropriate support to help them understand their child’s transition or transgender status.

## **C. Review**

### **13. Review of this guidance document**

- A member of the policy team will review the policy two years from the launch of this policy or sooner if there are legislative changes affecting this document.
- They will check that all contents are still relevant, engage with key stakeholders to look at practice issues and rewrite or amend contents as appropriate.
- The amended policy will be presented to relevant DvMTs for approval if the amendments warrant it.

## Appendix 1: Terminology

Terminology in the 'transgender' field is varied and constantly shifting as understanding and perceptions of gender variant conditions and gender nonconforming expressions change. The terms described below may vary in their usage and may become outdated.

**Acquired gender** – when a person has changed gender, their new gender is referred to as their acquired gender.

**Bisexual** - a term which refers to women and men who are emotionally and/or sexually attracted to people of the same and opposite sex.

Despite misconceptions, bisexuality does not require that a person be attracted equally to both sexes. In fact, people who have a distinct, but not exclusive preference for one sex over the other may still identify themselves as bisexual.

**Cisgender**- if your sex characteristics match your gender identity, you are cisgender. The majority of people living in the UK are cisgender. "Cis" is derived from the Latin meaning "on this side of".

**Gay** - The word gay is now standard in its use to refer to people whose orientation is to the same sex, in large part because it is the term that most gay people prefer in referring to themselves. Gay can be used to refer to both sexes; when the intended meaning is not clear in the context, the phrase gay and lesbian may be used.

**Gender Dysphoria; Gender Identity Disorder** – this is a medical condition, where a person's core gender identity does not match their outward appearance.

This is a recognised medical condition for which gender reassignment treatment is available on the National Health Service. Gender Dysphoria is distress, unhappiness and discomfort experienced by someone about their physical body not fully matching their gender identity (that is, their internal sense of where they exist in relation to being a woman or a man) and may cause severe mental distress, sometimes to the point of suicide.

Trans people usually experience intense gender dysphoria which is significantly reduced by transitioning to live as their self-identified gender and perhaps by taking hormones and perhaps getting surgery to help make their physical bodies match their gender identity and gender expression.

**Male-to-female (MTF Trans woman)** – a person who was born male, but who has transitioned or is transitioning to become female.

**Female-to-male (FTM Trans man)** – a person who was born female, but who has transitioned or is transitioning to become male.

**Gender Expression** - This is a person's external gender-related clothing and behaviour (including their interests and mannerisms).

**Gender Identity** - This is a person's internal sense of where they exist in relation to being a woman or a man.

**Gender Reassignment** – It is the process which is undertaken for the purpose of bringing the individual's physical appearance more in line with their gender identity. This will include counselling and psychiatric help, possible hormone replacement therapy (HRT) and surgery.

People who intend to undergo, are currently undergoing or who have previously undergone gender reassignment are legally protected from discrimination and harassment in employment, vocational training and the provision of goods, facilities and services. Not all individuals going through gender reassignment undergo surgery. Surgery is not a key criterion in the process of definition of gender change - people can receive full legal recognition of their acquired gender for all purposes without undergoing any surgery.

**Gender Recognition Certificate** – A certificate is issued by the Gender Recognition Panel that gives the transgender person legal recognition in their new gender. With the certificate it is possible for a transgender to change their birth certificate. It is not a requirement for the person to have had gender reassignment surgery to get a certificate. It may be applied for and granted after two years of the Real Life Experience.

**Hormones** – many transgender people have hormone replacement therapy (HRT) relevant to their intended gender role. These assist to change their outward appearance and internal core feelings. However, large doses of medication can have serious side effects; therefore some transgender people choose not to have HRT. This should not mean that their acquired gender is not respected.

**Intersex** – a genetic or hormonal condition which leads some individuals to an obvious mixture of male and female sex traits. Although derived from a different cause to that of the transgender person, gender role transition and similar treatment may be required for the intersex person to achieve their proper gender.

**Non-binary** - Gender is often referred to as a 'binary', meaning two – male and female.

The term 'non-binary' refers to people who don't believe that there are just two genders and who exist outside of the gender binary. Non-binary people class themselves as neither exclusively male nor female. They are under the trans umbrella but may not consider themselves trans.

A key thing to know is that if a service user identifies as non-binary, their gender identity is valid and deserves respect.

There are many terms that people find useful to describe their non-binary identity. 'Genderqueer' is a blanket term used for individuals who do not define their gender in binary terms. It covers a range of identities - from those who feel their gender is fluid, to others who feel they have no gender to speak of.

**Real Life Experience (previously called the Real Life test)** – before a person can apply for a Gender Recognition Certificate, they must live for at least two years in their acquired gender. To qualify for NHS treatment and corrective surgery, a trans person must usually have lived for one to two years in their acquired gender and hormones are normally prescribed just before or at the start of this period. This period is often referred to as the ‘Real Life Experience’

**Trans:** 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, cross dresser, non-binary, genderqueer (GQ).

“Trans” comes from the Latin word meaning: “On the other side of”.

**Transgender** – is an umbrella general term applied to a spectrum of individuals, behaviours, and groups involving tendencies to vary from the usual gender roles and is the state of a person’s “gender identity” (self-identification as woman, man, neither or both) not matching their "assigned sex". Transgender does not imply any specific form of sexual orientation. Transgendered people include transsexuals, transvestites and cross-dressers and intersexed people as well.

**Transsexual** – The terms ‘*transsexual*’ and ‘*transsexualism*’ are now considered old fashioned, and are only likely to be seen in legal and medical documents. Even there, these terms are gradually being replaced with more acceptable terminology, such as ‘transgender’ and ‘transgender’. In law, a transsexual person is someone who ‘proposes to undergo, is undergoing or has undergone gender reassignment’ (Equality Act 2010). For some, this will involve medical intervention to adjust the appearance so that it aligns with the gender identity, and is often associated with changes to the gender role and expression, as well as names and pronouns. These changes may alleviate much or all of the discomfort. The term transsexual is specific, and does not include non-binary identities.

The word ‘transsexual’ should be used as an adjective, not a noun. It is, therefore, never appropriate to refer to an individual as ‘a transsexual’, or to transsexual people, as ‘transsexuals’. The abbreviation ‘tranny’ is also unacceptable.

**Transvestites or Cross Dressers** – People (mostly men) who sometimes dress in clothes usually worn by the opposite sex, but who have no desire or intention to change their gender. Transvestites are not covered by the Equality Act 2010.

## **Appendix 2: External –useful sources of information and advice**

### **Equality Act 2010**

**<https://www.equalityhumanrights.com/en/equality-act-2010/what-equality-act>**

**Equality and Human rights:** [www.equalityhumanrights.com](http://www.equalityhumanrights.com)

The Equality and Human Rights Commission seeks to promote and uphold equality and human rights ideals and laws across England, Scotland and Wales. The EHRC also provide guidance on the Equality Act for employers:

<http://www.equalityhumanrights.com/private-and-public-sector-guidance>

**Gender Trust:** [www.gendertrust.org.uk](http://www.gendertrust.org.uk)

The Gender Trust supports all those affected by gender identity issues.

**GIRES:** [www.gires.org.uk](http://www.gires.org.uk)

Gender Identity Research and Education Society is a UK wide organisation whose purpose is to improve the lives of trans and gender non-conforming people of all ages, including those who are non-binary and non-gender.

**Stonewall:** <https://www.stonewall.org.uk/what-does-trans-mean>

Stonewall was founded in 1989, and since then has been at the forefront of unprecedented social and legal advancement for LGB people living in Britain. In 2015 Stonewall extended its remit to campaign for transgender equality.

### **Appendix 3. External –useful sources of information and advice specifically for Children Services**

[Kent's Trans Inclusion Guidance for Schools and Settings](#) Gender is not just pink and blue. This best practice guidance provides schools and other settings with the information and resources required to become a Trans inclusive environment. The guidance promotes a whole school approach, including staff and governor training and involvement of the wider school community.

Please note this Guidance is currently unavailable as it is under review in response to recent developments (May 2020), but further information can still be obtained by clicking on the link.

The Inclusion Support Service Kent: Offering training and advice to support gender variant children and transgender young people in schools and settings.

Booklist for Trans Teens: A list of young adult literature featuring trans (including transgender, gender variant, two-spirit, genderqueer, aggressive and other gender non-conforming) characters or trans themes.

Good Reads: Transgender Friendly Young Children's Books

Educate and Celebrate: LGBT+ Inclusive Lesson to help make schools, colleges, universities and organisations LGBT+ Friendly.

Gendered Intelligence: Gendered Intelligence work predominantly with the transgender community and those who impact on transgender lives. They particularly specialise in supporting young transgender people aged 11-25.

Mermaids: <https://mermaidsuk.org.uk/> Charity offering support for young people and/ or their parents

Metro Centre: Chat LGBTQ+ Youth Counselling: Chat supports young lesbian, gay, bisexual, transgender and queer/questioning people aged 11-25 and can also support their families. The service operates across London, Kent and Medway

The Tavistock and Portman Clinic: Children and young people who have been diagnosed with gender dysphoria are often referred to the Tavistock and Portman clinic which runs the only [Gender Identity Development Service](#) for children in the UK.

The BeYou Project connects young people in Kent who are lesbian, gay, bisexual, trans, non-binary or are questioning their sexual orientation and / or gender identity. they offer a safe, welcoming and non-judgemental space where young LGBT+ people can meet to socialise, have fun and help each other.