

Transgender Policy

Purpose of policy

This policy outlines the College's commitment to ensuring that transgender employees and students are treated with dignity and respect and are not disadvantaged in their learning or in the workplace.

The policy sets out the steps the College takes to welcome and support transgender employees and students and prevent discrimination.

Scope

The policy covers all students, employees, volunteers, contractors, temporary workers and job applicants and applies to all stages of the employment or educational relationship.

The policy accompanies the College's Equality and Diversity Policy and Harassment Policy.

Failure to take account of these policies may result in disciplinary action being taken against an employee or a student.

Our commitment

The College believes that diversity and inclusion brings benefits and that people work better when they can be themselves.

The College is committed to welcoming and supporting transgender employees and students and removing barriers to their recruitment, promotion and retention. Providing an environment that is free from discrimination, harassment or victimisation because of gender identity is an important step in ensuring that transgender employees and students are respected and valued.

Definitions

Definitions and terminology regarding transgender people are evolving. The appendix to this policy provides guidance on some of the most commonly used terms. Individuals will self identify and how they choose to describe themselves should be respected by their managers and colleagues. Rather than assume, it is best to ask someone how they wish to be addressed.

Using inappropriate language and terminology can cause offence and distress and undermines the College's efforts to create an inclusive College for transgender people.

The College recognises that gender identity and sexual orientation are not interchangeable terms. Transgender people can be bisexual, gay, heterosexual or lesbian and so no one should assume that a transgender colleague or student has a particular sexual orientation.

The law

Equality Act 2010

Gender reassignment is one of the nine protected characteristics covered by the Equality Act 2010. The Act protects a person from discrimination, harassment and victimisation if they are "proposing to undergo, are undergoing, or have undergone a process (or part of a process) of gender reassignment". There is no requirement for the person to be under medical supervision as gender reassignment is considered to be a personal rather than a medical process. Under the Act, a person who takes time off work for gender reassignment must not be treated less favourably in respect of employment decisions, for example by being denied access to training or promotion opportunities.

The Act also protects anyone who is perceived to have the characteristic of gender reassignment or is associated with someone who has the protected characteristic of gender reassignment, such as an individual's partner or a friend.

An employee who treats a colleague, or a student with students or staff, less favourably because of gender reassignment, for example by refusing to work with them, may be held personally liable for discrimination.

Gender Recognition Act 2004

The Gender Recognition Act 2004 allows transsexual people (terminology in line with Act) to apply for a gender recognition certificate (GRC), which will give them legal recognition in their acquired gender and enables them to obtain a new birth certificate. The Act safeguards the privacy of an individual with a GRC by defining information relating to the gender recognition process as "protected information" and, except "in certain specific circumstances" (for example, for the purpose of preventing or investigating crime), it is a criminal offence to disclose such information without the individual's consent.

An application for a GRC will be made to the Gender Recognition Panel. Individuals are required to provide a medical diagnosis of gender dysphoria and evidence that they have lived in their acquired gender for two or more years and intend to do so permanently.

Transgender people are not required to apply for a GRC and many choose not to for various reasons. An individual should never be asked if they have a GRC and to do so could be considered harassment.

Bullying and harassment (see Harassment Policy)

The College adopts a zero-tolerance approach to harassment, bullying or victimisation and such behaviour may result in action being taken under the College's disciplinary procedure.

Examples of harassment against transgender people include:

- verbal abuse such as name-calling, threats, derogatory remarks or belittling comments about transgender people;
- asking an individual if they have a GRC;
- jokes and banter about someone's gender identity or transgender people generally;
- refusing to use the pronoun appropriate to someone's acquired gender (for example, calling a trans woman "he") or calling the person by the name they had before they transitioned;

- threatening behaviour or physical abuse;
- intrusive questioning about someone's gender identity or transition;
- excluding a transgender colleague from conversations or from social events;
- refusing to work with someone because they have transitioned; and
- displaying or circulating transphobic images and literature.
- “outing” someone who is transgender/has transitioned

Single-sex toilets and facilities

The College will support a transgender person's right to use the toilets and facilities appropriate to their gender from the point at which the individual declares that they are living their life fully in that gender. There are single occupancy toilets around College that offer enhanced level of privacy available to all staff and students. A transgender person should not be expected to use a single occupancy/accessible-to-all toilet.

Dress codes

The College will agree with the employee or student what flexibility in the College's dress code may be permitted to accommodate the process of transition or where a gender-specific mode of dress would be uncomfortable for the individual.

If a transgender employee or student is required to wear a uniform, the College will ensure that arrangements have been made to provide them with a uniform appropriate to their gender. The uniform will be available from the point at which the individual presents in their new gender status.

Training on transgender issues

Information on transgender issues is an integral part of the College's equality-awareness training for its employees and for students. The aim is to help the College community to understand what is and is not acceptable behaviour and to differentiate myth from reality, thereby minimising the potential for conflict arising from misunderstandings.

Supporting an individual who is transitioning

The College will be supportive of an employee or student who has made the decision to transition.

The College acknowledges that the transition process and the time it takes will be unique to each individual and that it is not always a linear process.

Transitioning is a major decision and the individual may have taken years to come to this point. They may fear rejection or ridicule by their work colleagues. It is therefore vital that the College supports the individual so that they can continue to work without fear of discrimination and harassment and that colleagues are helped to understand the process.

Once the College has been made aware that an individual will be starting, or have started, the process of transitioning, an appropriate point of contact will be agreed with them. That person will work with the employee or student to develop a confidential action plan to manage the individual's transition at College.

The plan will consider what steps to take before, during and after the individual's transition. No action will be taken without the person's consent.

It is important to develop a plan that is bespoke to the individual employee or student. Some of the key issues to address are likely to include:

- when and how an individual will present at College in their new gender status;
- handling a request by an employee to change their job temporarily during the transition process or to move to a new role permanently;
- the point at which colleagues, especially any direct reports, will be informed and how this will be done;
- if and how third parties, such as clients, should be informed;
- how absence from College for reasons associated with transitioning (for example, for medical appointments and/or medical treatment) will be handled;
- arrangements for changing the individual's name on their HR records, email, security badges etc;
- confidentiality; and
- dress codes and/or uniforms.

Transitioning is a process that takes time, and, to help both parties, regular review meetings will be arranged to manage the process. This will ensure that the right support is in place, and enable the plan to be amended as things change. Effective support for someone who is transitioning requires dialogue, agreed action and respect.

Employees who work for the College

How the College supports transgender employees

The College recognises that transgender job applicants and employees are not required to inform the College of their gender status or gender history. The gender in which an individual chooses to present will always be acknowledged and respected.

To promote a workplace that is inclusive of transgender people, the College adopts the following approach.

Recruitment

The College wishes to attract applicants from as wide a talent pool as possible and the recruitment process is designed to be inclusive of transgender applicants.

Recruitment Panels should not ask questions about an applicant's gender identity or gender history. If an individual chooses to mention this during the interview, they should be informed that the College supports transgender employees and assured that the disclosure will have no bearing on the outcome of the interview and will not be revealed outside the interview room.

The requirement to provide proof of identity to confirm the right to work in the UK can be particularly sensitive for a transgender applicant whose identification documentation may be in their previous names. The College will always ensure that an applicant is made aware of the full range of permissible identification documents and that the process of checking is handled sensitively and with respect for privacy of the individual.

Where an individual's documentation reveals their previous name and thereby their gender history, this information will be kept confidential and stored securely with the permission of the individual and in accordance with the requirements of data protection legislation. The same approach will apply to qualification certificates before a job offer is confirmed and the certificates are in the applicant's previous name. Before a reference request is sent out the name or names to be used will be confirmed with the applicant.

Monitoring

The College will monitor the gender identity and trans status of the existing workforce and of applicants for jobs (including promotion) and will review its policies in accordance with the results shown by the monitoring.

The disclosure of information by employees/job applicants is voluntary and any information disclosed will be treated in confidence, stored securely and used only to provide statistics for monitoring purposes.

Employment

An employee who is transitioning may wish to be redeployed on a temporary or permanent basis. This may be because: the individual is in a public-facing role and wishes to avoid having to answer questions from the public about gender status; or the role involves particular tasks, for example heavy lifting, that will be difficult to undertake if undergoing a particular type of treatment. Requests to be redeployed will be discussed with the employee and, where possible, the College will seek to accommodate the employee's wishes.

Pressure will not be placed on an individual to change jobs nor will assumptions be made about their capability or wishes.

An employee's gender history or status will not have a bearing on any employment decisions or access to benefits, except where permitted by law. For example, an individual who has transitioned but does not have a GRC may be required to disclose their gender history for insurance and pension purposes. In such circumstances, the College will treat such information as sensitive data and it will be handled in line with the requirements of data protection legislation.

Where pension and insurance providers request disclosure of an individual's gender status, the College will ensure that this requirement has been checked with the underwriter and the requirement is made clear in any scheme information provided to employees. In such circumstances, the employee's written consent will be obtained before disclosing their gender history and status.

Names and pronouns

The College will take all necessary steps to ensure that an individual's change of name is respected. The College is aware that a failure to change pronouns and names on records in respect of a transgender employee could constitute direct discrimination.

A GRC is not required to enable a transgender person to change their name and the College will never ask an individual if they have a GRC to verify a name change, as to ask such a question would be inappropriate.

Consistently addressing a transgender employee by their previous name and/or an inappropriate pronoun may be regarded as harassment and will be dealt with accordingly.

Changing employee records

Any records that hold personal details should be changed by the time the individual presents at work with their new identity. Records will include all of the systems that may contain names, titles and other personal identifiers such as photographs on the College's website and intranet. The College will work with the employee to ensure that nothing is omitted.

Confidentiality

All records that include details of an employee's gender history will be destroyed in a secure manner, unless there is a specific reason for retaining them. Where other people in the College need to be aware of the employee's transition to make a change to a particular record, the College will obtain the employee's consent, and restrict the information to those who need to know.

Where there is a need to retain documentation that shows someone's gender history, this information will be stored confidentially in line with the requirements of data protection legislation. The information will be held electronically in a secure environment (for example, password protected) that can be accessed only with the consent of the individual concerned. Only named individuals will be allowed to access this information and those individuals will be made aware that breaches of confidentiality could be unlawful and result in disciplinary action.

Care will be taken to ensure that any search of the College's records by others will not inadvertently reveal an employee's gender history.

It is an individual's decision whether or not to reveal their gender status and history and the College will respect their right to privacy. For example, if someone is recruited into a team managed by a transgender employee, they must not be informed about the manager's gender history.

Where an employee discloses information about their gender history or status (verbally or in writing), and wants it to remain confidential it will be treated as such. This includes any information provided to the line manager or HR. Such information will not be shared with others, unless there is a specific reason and then not without the written consent of the individual concerned. Disclosure of the gender history of someone with a GRC without their specific permission would normally be a criminal offence.

Information relating to an employee's gender status or history will not be disclosed to a third party without the individual's consent, for example when responding to a reference request.

Communication

The College will work with the employee to agree what information needs to be conveyed to work colleagues and when the information should be conveyed. While the whole workforce may not need to know about the employee's transition, people who work closely with the individual will normally need to know to ensure that a good working relationship is maintained.

The employee may wish to tell colleagues about their transition or may prefer if this is done by someone else on their behalf. The College will encourage the individual to do what is best for them and, if the employee is not ready to tell anyone at the early stages, the College will respect the employee's wishes. The employee is entitled to privacy and the College will seek to protect them from intrusive enquiries.

Where an employee has a public or client-facing role, the College will discuss with the individual what third parties need to know and how this should be handled.

Students at College

How the College supports transgender students

To promote a College that is inclusive of transgender people, it will adopt the following approach.

Recruitment

The College recognises that transgender students may not wish to disclose their gender history however there are certain regulations which mean that a student will need to enrol and take exams or their qualification(s) in their legal name. All examination entries have to be made in the student's legal name and this also has to be returned to the funding agency to support funding. However, whilst in College the student can choose to be referred to by their preferred name. Given that the register of attendance is a document that can be submitted in legal proceedings, the link between preferred name and legal name has to be recorded on the central College systems

For students the requirement to provide proof of identity to confirm the right to study in the UK can be particularly sensitive for a transgender applicant whose identification documentation may be in their previous names. The College will always ensure that an applicant is made aware of the full range of permissible identification documents and that the process of checking is handled sensitively and with respect for privacy of the individual.

Where an individual's documentation reveals their previous name and thereby their gender history, this information will be kept confidential and stored securely with the permission of the individual and in accordance with the requirements of privacy notice which all students sign.

ID badges and registers (who you will be known as)

Students may change their photo as they transition if they require it, by going to the Student Hub and updating their photo ID. The student name on ID badges and registers will be the name which they elect to be known as whilst in College.

The College will take all necessary steps to ensure that an individual's change of name is respected within the legal parameters. The College is aware that a failure to change pronouns and names on records in respect of a transgender employee could constitute direct discrimination.

Consistently addressing a transgender student by their previous name and/or an inappropriate pronoun may be regarded as harassment and will be dealt with accordingly.

For examinations and other external agencies, the College will be required to submit information which identifies the student by their current legal name and birth gender. Students should be aware that any examination certificates will be issued in their legal name.

Information relating to a student's gender status or history will not be disclosed to a third party without the individual's consent, for example when responding to a reference request. However, the College will process the student's data in accordance with the terms of the privacy notice.

Monitoring

The College will monitor the gender identity and trans status of the students and will review its policies in accordance with the results shown by the monitoring.

The disclosure of information by students will be treated in confidence.

Confidentiality

All records that include details of a student's gender history will be destroyed in a secure manner, unless there is a specific reason for retaining them such as ILR data to support funding claims.

Where other people in the College need to be aware of the student's transition to make a change to a particular record, the College will obtain the student's consent, and restrict the information to those who need to know.

For Staff only: *Where there is a need to retain documentation that shows someone's gender history, this information will be stored securely in line with the requirements of data protection legislation and the need to process data as defined in the privacy notices. The information will be held electronically in a secure environment (for example, password protected) that can be accessed only with the consent of the individual concerned. Only named individuals will be allowed to access this information and those individuals will be made aware that breaches of confidentiality could be unlawful and result in disciplinary action.*

Care will be taken to ensure that any search of the College's records by others will not inadvertently reveal a student's gender history.

Where a student discloses information about their gender history or status (verbally or in writing), and wants it to remain confidential it will be treated as such. This includes any information provided to the admissions team, personal coach or a member of teaching staff. Such information will not be shared with others, unless there is a specific reason and then not without the written consent of the individual concerned.

Disclosure of the gender history of someone with a GRC without their specific permission would normally be a criminal offence.

Communication

The College will work with the student to agree what information needs to be conveyed to fellow students and staff and when the information should be conveyed so that good relations are maintained.

The student may wish to tell others about their transition or may prefer if this is done by someone else on their behalf. The College will encourage the individual to do what is best for them and, if the student is not ready to tell anyone at the early stages, the College will respect the student's wishes. The student is entitled to privacy and the College will seek to protect them from intrusive enquiries.

Law relating to this document

Human Rights Act 1998
Data Protection Act 1998
Gender Recognition Act 2004
Equality Act 2010

| Approved / Reviewed | By | Date |
|---|-----------------------------------|--|
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Glossary

- **Acquired gender:** Used in the Gender Recognition Act 2004 to describe a person's gender after transitioning. As this is a legal term, many people now prefer to use the term 'affirmed' gender.
- **Assigned gender:** The gender assigned to someone at birth, based on their physical characteristics.
- **Cross dresser:** Someone who chooses to wear clothes not conventionally associated with their assigned gender. 'Cross dresser' is now used in preference to the term 'transvestite', which is considered to be outdated and can cause offence. Cross dressers are generally comfortable with their assigned gender and do not intend to transition.
- **Gender dysphoria:** A recognised medical condition where the individual experiences severe discomfort and anxiety because their gender identity does not align with their biological sex.
- **Gender expression:** How someone manifests their gender identity in society, for example through their appearance and behaviour.
- **Gender fluid:** Is a gender identity best described as a dynamic mix of boy and girl. A person who is gender fluid may always feel like a mix of the two traditional genders, but may feel more boy some days, and more girl other days. Being gender fluid has nothing to do with which set of genitalia one has, nor their sexual orientation.
- **Gender identity:** A person's internal perception of their gender, their sense of self. For transgender people, their gender identity does not match the gender they were assigned at birth.
- **Gender reassignment (or transitioning):** process where an individual changes their expressed gender to live fully in the gender with which they identify. example, a person who was born female decides to take steps to live the rest of their life as a man. Gender reassignment does not require medical treatment and is a protected characteristic under the Equality Act 2010.
- **Intersex:** An intersex person is born with ambiguous genitalia and/or sex chromosomal variations, making it difficult to classify their biological sex. There are many different intersex conditions. An intersex person may self identify as a man or a woman or neither.
- **Non-binary:** An inclusive term to describe people whose gender identity is 'fluid' and not exclusively male or female. A non-binary person may identify as neither male nor female or may feel that they embody elements of both genders, or that they are something different. The terms intersex and non-binary are not interchangeable.
- **Transgender (or trans):** An umbrella term describing the diverse range of people whose gender identity or gender expression differs from the gender they were assigned at birth. The term can encompass individuals who are transsexual, cross dressers or non-binary.
- **Transsexual:** A transsexual person has the protected characteristic of gender reassignment and is defined in the Equality Act 2010 as someone who is 'proposing to undergo, is undergoing or has undergone gender reassignment'. Gender reassignment is a protected characteristic under the Act. It is not necessary for a transsexual person to have to be under medical supervision to be protected in law from discrimination.
- **Transphobia:** A fear of or a dislike of transgender people. It is based on prejudice and misunderstanding and can involve verbal abuse, physical violence and other forms of harassment.