

NORTH LINCOLNSHIRE COUNCIL

**CORPORATE AND COMMUNITY SERVICES
CABINET MEMBER**

GENDER REASSIGNMENT GUIDANCE

1 OBJECT AND KEY POINTS IN THIS REPORT

- 1.1 To seek approval for the revised Gender Reassignment guidance.

2 BACKGROUND INFORMATION

- 2.1 The Equality Act 2010 provides a new cross-cutting legislative framework to protect the rights of individuals and advance equality of opportunity for all; to update, simplify and strengthen the previous legislation; and to deliver a simple, modern and accessible framework of discrimination law which protects individuals from unfair treatment and promotes a fair and more equal society.
- 2.2 As a result of the Act the updating of the Gender Reassignment guidance was necessary. The Act stipulates that an individual need not be under medical supervision for protection from discrimination to apply.
- 2.3 More information has also been included in the guidance to ensure fair treatment of employees undergoing gender reassignment and to support managers in dealing with the process. A glossary has also been added as an appendix to explain the terminology used in the guidance.

3 OPTIONS FOR CONSIDERATION

- 3.1 To consider and accept the revised guidance.
- 3.2 To reject the revised guidance.
- 3.3 To recommend amendments to the revised guidance.

4 ANALYSIS OF OPTIONS

- 4.1 Accepting the revisions will ensure that the guidance complies with the Equality Act 2010.
- 4.2 Rejecting the guidance would result in a lack of legislative compliance in this area.

- 4.3 Recommending further changes to the guidance would require further consultation and delay implementation.

5 RESOURCE IMPLICATIONS (FINANCIAL, STAFFING, PROPERTY, IT)

5.1 Financial

None.

5.2 Staffing

There are no direct staffing implications.

5.3 Property

None.

5.4 IT

None.

6 OTHER IMPLICATIONS (STATUTORY, ENVIRONMENTAL, DIVERSITY, SECTION 17 CRIME AND DISORDER, RISK AND OTHER)

- 6.1 The revised policies ensure that the council meets its legal obligations under the Equality Act 2010.

7 OUTCOMES OF CONSULTATION

- 7.1 The relevant trade unions have been consulted and are supportive of the proposals.

8 RECOMMENDATIONS

- 8.1 That the revised guidance be approved and adopted.

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Background Papers used in the preparation of this report: None

1.0 INTRODUCTION

1.1 North Lincolnshire Council will ensure an environment where transgender people feel safe in being open about their gender identity.

1.2 The council will not tolerate any form of discrimination on the grounds of gender. See the council's Fair Employment and Equal Pay policy, C.6 for further information.

1.3 This guidance aims to:

- Aid managers in supporting potential and existing employees undergoing gender reassignment;
- provide good practice and highlight areas that may need to be considered when an individual is going through the process of gender reassignment;
- ensure the fair treatment of potential and existing employees undergoing gender reassignment.

1.4 A glossary is provided at Appendix 1 to give further explanation on the terms used.

2.0 LEGAL CONTEXT

2.1 The Equality Act 2010 provides protection for transsexual people. A transsexual person is someone who proposes to, starts or has completed a process to change his or her gender.

2.2 The Equality Act 2010 does not require a person to be under medical supervision to be protected. For example, a woman choosing to live permanently as a man but does not undergo any medical procedures would be covered.

2.3 Transgender people may wish to keep their status as private as possible, others may share the information confidentially or openly. It is important not to breach the

personal privacy of the individual. This applies equally to those living in their acquired gender without undertaking any medical procedures.

- 2.4 The Gender Recognition Act (2004) allows transsexual people (aged over 18) to change their legal identity as male or female. The Act gives transsexual people the right to obtain a new birth certificate, affording them recognition of their acquired sex in law for all purposes, including marriage.
- 2.5 In order to obtain a Gender Recognition Certificate under the Act, transsexual people must satisfy a Gender Recognition Panel that they have had or have gender dysphoria, have lived in their acquired gender for two years prior to application and intend to live permanently in their acquired gender. More information can be found at www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/gender-recognition-panel/index.htm

3.0 THE PROCESS OF GENDER REASSIGNMENT

- 3.1 Gender reassignment is the medical term for people who medically alter their bodies to match their gender identity.
- 3.2 Firstly, a specialist diagnoses transsexualism, which may take months or years. Preliminary diagnosis is followed up with hormone therapy, and after approximately six months the individual's physical appearance will begin to change, though they may maintain their usual gender role at work for a while longer. At some point over the next few months the individual will start to live full time as a member of their acquired gender, and their name and records may be formally changed. This is known as the Real Life Experience (RLE).

Real Life Experience

- 3.3 Discussions should take place with the employee on how they wish the process and the practicalities of the RLE in the work environment to be handled. Issues to be discussed may include:

- Informing colleagues is the responsibility of the employee's manager, unless the employee prefers to do this for him or herself. No one will be informed that the employee plans to undergo or is undergoing gender reassignment without the explicit consent of the employee.
 - All colleagues should refer to the employee by their new name and use pronouns appropriate to their acquired gender.
 - The use of changing and toilet facilities will be part of the discussion process with the employee. The employee will use the facilities pertaining to their acquired gender from the day they return to the workplace living as a person of their acquired gender. **It is not appropriate to allocate specific facilities to the employee undergoing gender reassignment or to ask them to use disabled facilities.**
 - Employees undergoing gender reassignment should continue to wear the uniform of their original gender until they commence the RLE at which point name badges etc should be changed.
- 3.4 The employee's records will be changed when the appropriate documentation has been provided. Names and titles can be changed by deed poll or statutory declaration; gender can be changed by a Gender Recognition Certificate. Transsexual people can apply to the Gender Recognition Panel to obtain a Gender Recognition Certificate, see paragraph 2.5. When records are changed to the acquired gender, documentation on the employee's personal file will be updated and held securely.

Surgery

- 3.5 After one or two years of hormone therapy and if there are no delays, the individual proceeds to surgery should they wish to. The extent of the surgical procedures may vary according to the needs of the individual. Most surgical procedures will require a paid absence from work of between two weeks and three months. Absence due to gender reassignment will not be counted towards monitoring purposes. See the Sickness Absence policy, D.2 for further information.

Recruitment considerations

- 3.6 There is no requirement for a transsexual person to disclose their status as a condition of employment. If a disclosure is made as part of the recruitment process this must be kept confidential by all those involved.
- 3.7 Transsexual people may have to disclose their previous identity in order for references from past employees to be obtained; such information must be kept confidential. References requested for past employees should be provided in the name that will be used in the new job and must not disclose a former name.
- 3.8 Where CRB checks are required, transsexual people can do this without the need to disclose their previous identity to the council. The CRB's special security section can be contacted on 0151 676 1452 or via crbsensitive@crb.gsi.gov.uk
- 3.9 Those employees who are registered with a professional body should contact that professional body directly to determine if there are any specific requirements regarding the change of details. If previous registration details need to be held these must be kept confidentially on the employee's personal file.

Pension considerations

- 3.10 Pension records will need to be amended to reflect the change to the acquired gender. There may be some implications surrounding the GRC, marital status and nominations for benefits. For further information see www.erpf.org.uk

4.0 Record Keeping

- 4.1 The council must ensure that all documents, public references (such as telephone directories, website contact pages) and employment details reflect the acquired gender of the employee.
- 4.2 Copies of existing documents (such as birth certificates) should be replaced with the equivalent documents in the acquired gender. There may be some instances where documents that relate to the employee's gender at birth, such as for pension

purposes are retained. However, upon receipt of a GRC the new details must be used. Access to records should be restricted.

5.0 Harassment/Victimisation

- 5.1 Harassment or victimisation of an individual on the grounds of gender reassignment by his or her colleagues is classed as unlawful discrimination. If the individual feels they are suffering from harassment or victimisation they may seek resolution via the council's Dignity at Work policy, C.4.

- **Gender**

Gender is expressed in terms of masculinity and femininity. It is largely culturally determined and is assigned at birth based on the sex of the individual. It affects how people perceive themselves and how they expect others to behave.

- **Gender, acquired**

The gender role that a trans person achieves through the process of transition. It is the legal term in relation to the issuing of a Gender Recognition Certificate which gives a trans person full legal rights in this gender.

- **Gender, attributed**

The gender and sex that one is taken to be by others. This is usually an immediate, unconscious categorisation of a person as being a man or a woman, irrespective of their mode of dress

- **Gender identity**

The gender to which one feels one belongs.

- **Gender dysphoria**

An anxiety, uncertainty or persistently uncomfortable feelings experienced by an individual about their birth gender which is in conflict with their internal gender identity.

- **Gender Recognition Certificate (GRC)**

A full GRC shows that a person has satisfied the criteria for legal recognition in their acquired gender. It will be issued to a successful applicant if he or she is not married or in a civil partnership. From the date of issue, the holder's gender becomes the acquired gender for all purposes, in both a legal and social context. This means that the person in question now belongs to the opposite gender. A full GRC also gives the holder the means to obtain a new birth certificate. A GRC gives the person the freedom to marry a person of the opposite sex to their acquired gender or enter into a civil partnership with a person of the same sex.

- **Sex**

To what sex do the organs of the body match, i.e. male or female.

- **Transition**

The social, psychological, emotional and economic processes that a trans person undergoes to move from their birth gender into their acquired gender. The time this takes is variable and depends on the individual's ability to embrace significant change in their life. The process may or may not involve the person undergoing gender reassignment surgery (GRS).

If the person wishes to undergo gender reassignment surgery (GRS) they will have to undergo a so called Real Life Experience (RLE), i.e. living in their acquired gender for a minimum of one or two years.

- **Transsexual person**

A transsexual person is someone who experiences a profound and long-term conflict between their physical or anatomical sex and mental gender. It is not connected to a person's sexual orientation. The individual may wish to change their physical sex through hormonal and/or surgical reconstruction or to live in the gender role that conforms to their gender identity

- **Transgender**

(1) An umbrella term used to include transsexual people, transvestites and cross-dressers, as in 'the transgender community'.

(2) Relating to a transgender person (as defined below) – it is with this regard that transgender is used throughout the guidance document.

- **Transgender person**

A person who, like a transsexual person, transitions – sometimes with the help of hormone therapy and/or cosmetic surgery – to live in the gender role of choice, but has not undergone, and generally does not intend to undergo genital surgery.

- **Trans man/woman**

A term that is used by some trans people (transsexual and transgender people) who are open about their status and do not fear the consequences of their pasts being revealed or who believe that transition does not mean they become men or women.

- **Transvestite**

A person who dresses in the clothing of the opposite sex as defined by socially accepted norms. Consequently, in contemporary society, the majority of transvestites are cross-dressing men. Generally, transvestites do not wish to alter their body and do not experience gender dysphoria