

NORTH LINCOLNSHIRE COUNCIL

BUSINESS TRANSFORMATION AND FINANCE CABINET MEMBER

GENDER REASSIGNMENT GUIDANCE

1. OBJECT AND KEY POINTS IN THIS REPORT

- 1.1 To outline and seek approval for the council's updated Gender Reassignment Guidance.

2. BACKGROUND INFORMATION

- 2.1 The council introduced its Gender Reassignment Guidance in 2011.
- 2.2 Since then some of the information and terminology contained in the guidance and glossary has become outdated and is therefore no longer fit for purpose.
- 2.3 The guidance and glossary have therefore been revised, based on guidance from Stonewall, to reflect the updated legal position and accepted terminology.

3. OPTIONS FOR CONSIDERATION

- 3.1 To approve the revised Gender Reassignment Guidance.
- 3.2 To reject the proposed changes.
- 3.3 To recommend further amendments to the guidance and/or glossary.

4. ANALYSIS OF OPTIONS

- 4.1 Approving the revised documents will ensure the council is providing accurate and up to date information and guidance for employees and managers on transgender issues. It will also reinforce the council's commitment to participating in Stonewall's Workplace Equality Index.
- 4.2 Rejection of the proposed changes will result in the Gender Reassignment Guidance containing outdated and non-compliant information, and some terminology which is no longer widely utilised or accepted.

4.3 The revised documents have been prepared with reference to Stonewall guidance and their glossary of terms, and therefore should be compliant and fit for purpose.

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

5.1 There are no resource implications.

6. OUTCOMES OF INTEGRATED IMPACT ASSESSMENT (IF APPLICABLE)

6.1 An integrated impact assessment has considered the diversity implications of these changes. The proposed changes support transgender employees and there are no adverse implications.

7. OUTCOMES OF CONSULTATION AND CONFLICTS OF INTEREST DECLARED

7.1 The trade unions have been consulted on the proposals and are supportive of the revisions.

8. RECOMMENDATIONS

8.1 That the proposed revisions to the guidance and glossary be approved and implemented.

DIRECTOR OF BUSINESS DEVELOPMENT

Civic Centre
Ashby Road
SCUNTHORPE
North Lincolnshire
DN16 1AB
Author: Louisa Rae
Date: 3 October 2017

Background information used in the preparation of this report:

www.stonewall.org.uk

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.

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.

Transition

- 3.3 Discussions should take place with the employee on how they wish the process and the practicalities of transitioning 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 transition 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. When records are changed to the acquired gender, documentation on the employee's personal file will be updated and held securely.

Surgery

- 3.5 As part of the transitioning process, the individual may undergo surgery. The extent of the surgical procedures may vary according to the needs of the individual. Sickness absence due to gender reassignment will be discounted for monitoring purposes. See the Attendance Management policy, D.2 for further information.

Recruitment considerations

- 3.6 There is no requirement for a transgender 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 Transgender people may have to disclose their previous identity in order for references from past employers 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 criminal record checks are required, transgender people can do this without the need to disclose their previous identity to the council. The Disclosure and Barring Service's sensitive applications team can be contacted via sensitive@db.s.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.

4.0 Record Keeping

- 4.1 The council will 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 often expressed in terms of masculinity and femininity (binary gender). It is largely culturally determined and is assigned at birth based on the sex of the person. See also **Non-binary gender**

Gender, acquired

The gender role that a (binary) transgender 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 (binary) transgender person full legal rights in this (their acquired) 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 dysphoria**

When a person experiences discomfort or distress because there is a mismatch between their sex assigned at birth and their gender identity. This is also the clinical diagnosis for someone who does not feel comfortable with the gender they were assigned at birth.

Gender expression

How a person chooses to outwardly express their gender, within the context of society's expectations. However, a person who does not conform to society's expectations of gender may not identify as trans or transgender.

- **Gender identity**

A person's sense of their own gender, whether male, female or something else (see **non-binary gender**), which may or may not correspond to the sex assigned at birth.

Gender Reassignment

Gender reassignment is a protected characteristic under the Equality Act 2010. It currently covers binary transgender people who either transition from male to female or from female to male. Binary transgender people are covered by law from the point at which they identify that they are transgender / intend to transition,

- **Gender Recognition Certificate (GRC)**

A GRC enables (binary) transgender people to be legally recognised in their acquired gender and, to be issued with a new birth certificate. Not all transgender people will apply for a GRC and a person currently needs to be over 18 to apply. A person does not need a GRC to change their recorded gender at work or to legally change their gender on other documents such as a passport.

- **Non-binary gender**

An umbrella term for a person who does not identify as only male or only female. They may identify as both. Examples of terms some non-binary gender people use to describe their gender include gender fluid or gender queer. Some people will identify as having no gender.

- **Sex**

Sex is assigned to a person at birth on the basis of primary sex characteristics (genitalia) and reproductive functions. Sometimes the terms 'sex' and 'gender' are interchanged to mean 'male' and 'female'.

- **Transition**

The steps a transgender person may take to live in the gender with which they identify. Each person's transition will involve different things. For some people this involves medical intervention, such as hormone therapy and surgeries, but not all trans 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.

- **Transsexual person**

'Transsexual person' is another term to describe a binary transgender person. 'Transgender person' or 'trans person' are recognised to be the preferred terminology of many trans people. 'Transsexual' is often seen as an 'old fashioned' term but it is still used in medical terms to describe a person who is transgender or wants to transition from 'assigned male to acquired female' or from 'assigned female to acquired male'

- **Transgender**

(2) 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, gender fluid, gender-variant, genderless, agender, N, third gender, bi- gender, trans man, trans woman, trans masculine, trans feminine, neutrois and two-spirit

The broader definition of 'trans community' also includes people who are cross dressers

- **Transgender person**

A term used to describe a person whose gender expression and/or gender identity differs from what is typically associated with the sex they were assigned at birth

- **Trans man**

A term used to describe someone assigned female at birth but who identifies as and lives as a man. This may be shortened to trans man or FTM, an abbreviation of female-to-male.

- **Trans woman**

A term used to describe someone who is assigned male at birth but who identifies as and lives as a woman. This may be shortened to trans woman or MTF, an abbreviation for male-to-female.