

DRAFT



Gender Identity and Trans Guidance for all Schools Colleges & Children and Families' Services

March 2017

Gender Identity and Trans Guidance

Introduction and purpose of guidance

This guidance is to inform schools colleges and other children and families' services and enable them to support and protect pupils who are questioning their identity and to help them to achieve their full potential whilst in education.

The aims of this guidance are to minimise distress and disruption to pupils and embed good practice in schools by;

- Promoting inclusion for all students within education by improving services for transgender or Trans pupils.
- Ensuring that governors and teachers are able to deal with Trans matters inclusively
- Providing information to feel confident that they are complying with the Equality Act 2010 and meeting their Public Sector Equality Duty obligations.

Contents:

What is GI and Trans?

Legislation

Data Protection Act 1998 (UK)

Gender Identity and Sexual Orientation

Experiences of Trans Children and Young People

Developing a Whole School Approach

Transphobic Bullying and Hate Incidents

Support for the Trans Child or Young Person

Dealing with the questions of staff, children, families and the wider community

Resources and further support

APPENDIX 1: GLOSSARY OF TERMS

APPENDIX 2: A Model Gender Identity & Trans School Policy

What is Gender Identity, Trans or transgender?

Gender identity concerns person's internal sense of self (male, female, neither or both) and how one chooses to express oneself. A person's gender identity is typically expected to follow directly from the sex they were assigned at birth (based on physical attributes), but this is not always the case. Trans tends to refer to people whose gender identity differs from the sex they were given at birth.

Some definitions used in the area of gender identity are given below and in Appendix 1. The terms, 'transgender' or trans are viewed by many people as being acceptable terms to describe people whose sense of their gender or gender identity is seen as being different to typical gender norms. However, wherever possible individuals should be given opportunities to say how they identify or describe themselves rather than labels being ascribed to them.

The people who have a gender identity describe and identify themselves in words as:

- Transgender or Trans
- Transsexual
- Transvestite
- Intersex
- Both male and female
- Neither male nor female
- Androgynous
- A third gender; or
- Non-binary
- Gender variant
- Cisgender
- Male
- Female

Or who have a gender identity which we do not yet have words to describe.

Transgender or Trans Person – A person whose gender identity is different from the biological sex they were assigned at birth. Some trans people will choose to transition socially and some will also take medical steps to physically transition (with the help of hormone therapy and/or surgery) to live in the gender role of their choice.

Trans children and young people are usually dependent on their parents for care, shelter, financial support, and other needs, and because most doctors are reluctant to provide medical treatments to them, transgender children and young people face different challenges compared to adults. Transgender issues manifest at different times in life in different individuals. In most cases of gender dysphoria the condition is often apparent in early childhood, when such a child may express behaviour incongruent with and dissatisfaction related to their assigned gender. However, many of these children experience rejection as a result of their differences and quickly attempt to repress them. Therefore, people who see these children regularly may be unaware that they are unhappy as members of their assigned gender.

Gender Dysphoria is a strong, persistent discomfort and distress with one's gender, anatomy, birth sex, and even societal attitudes toward their gender variance. Trans young people who experience gender dysphoria tend to be very conscious of their body; appearance, weight, and other people's opinions of their body may become very important. Body esteem of several trans young people was measured in an interview in three categories (personal satisfaction of appearance, personal satisfaction of weight, and perceived satisfaction of others of one's body appearance). It was found that those trans young people who experienced less personal satisfaction with their weight and who perceived others' satisfaction with their body as worse were more likely to practice life-threatening behaviors than those who were more satisfied with their weight and thought that others view their body more positively.

Legislation

The legislation states that schools must not discriminate against a pupil because of their trans status. Schools may take an approach to ensure that the needs of trans pupils are catered for. This guidance will outline the adjustments and steps that schools may need to take to meet the needs of trans pupils. The practicalities and arrangements for such adjustments will vary from school to school.

Data Protection Act 1998 (UK)

Information about a person's Transgender status is considered 'sensitive personal data' and is subject to tighter controls than other personal data. Explicit consent is required before it can be processed.

- Personal data must be looked after properly following the eight data protection principles, which include ensuring personal data is accurate, secure and processed fairly and lawfully.
- Failure to change a person's title, name and gender when requested could lead to the following offences under the Act.
- Disclosure of personal information that is used, held or disclosed unfairly, or without proper security
- Failure to ensure personal information is accurate and up-to-date
- Processing of data likely to cause distress to the individual

The Human Rights Act 1998

The following Articles from The Human Rights Act 1998 support the rights and needs of Transgender people to live their lives in their true gender.

- Article 8: right to respect for private life and family life
- Article 10: freedom of expression

- Article 14: the prohibition of discrimination

The Gender Recognition Act 2004

The Gender Recognition Act 2004 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. This can only occur after a person reaches 18 years of age but is something that many younger people may aspire to.

Equality Act 2010 (Great Britain)

The Equality Act 2010 ensures legal protection against discrimination, harassment and victimisation (direct or indirect) for everyone under the nine protected characteristics defined in the Act, one of which is Gender Reassignment (also known as Transgender). Part 6 of the Equality Act 2010 makes it clear that the Act specifically refers to School and young people. The Equality Act 2010 (2:1:7) states that:

A person has the protected characteristic of gender reassignment if the person is proposing to undergo, is undergoing or has undergone a process (or part of a process) for the purpose of reassigning the person's sex by changing physiological or other attributes of sex.

The Act applies to employment, education and a range of other areas where discrimination may take place. In order to be protected under the Act, a student will not necessarily have to be undergoing a medical procedure to change their sex, but they must be taking steps to live in the opposite gender, or be proposing to do so. The school governing body has a responsibility to ensure that the school is complying with its requirements under the Equality Act.

Sex Discrimination (Gender Reassignment) Regulations 1999

Individuals who intend to undergo, are undergoing or have undergone gender reassignment are protected from discrimination in work, school and vocational training (including higher education study).

Less favourable treatment relating to absences arising from gender reassignment is unlawful if:

- the treatment is less favourable than if it had been due to sickness or injury
- the treatment is less favourable than if it had been due to some other cause and, having regard to the circumstances of the case, it is reasonable not to be treated less favourably.
- Less favourable treatment includes the arrangements relating to terms and

conditions or arrangements under which employment, education or vocational training is offered.

Discrimination

As stated, The Equality Act 2010 ensures legal protection against discrimination in employment, education, the provision of services and the delivery of public functions, in relation to the nine protected characteristics defined in the Act, one of which is Gender Reassignment.

The legislation states that a school must not discriminate against a student because of their Transgender status. Discrimination can be direct or indirect. Indirect discrimination occurs when a provision, criterion or practice applies to everyone but puts a person with a particular protected characteristic at a particular disadvantage, and it cannot be justified as a proportionate means of meeting a legitimate aim. An example might be an inflexible school uniform rule which offers no “unisex” options such as trousers for girls, and which would therefore create a particular difficulty for a F2M student.

Gender Identity and Sexual Orientation

Whilst gender identity concerns person’s internal sense of self (male, female, neither or both) and how one chooses to express oneself, this is completely different to sexual orientation which concerns who the persons are sexually attracted to, whether that be men, women, both or neither. Gender identity and sexual orientation are varied and complex and may change over time. Trans* people, like cisgender or non-trans* people, can have a range of sexual orientations. Trans* men may identify as straight (sexually attracted to women), gay (sexually attracted to men), bisexual (sexually attracted to women and men) or asexual (feeling no sexual attraction to anyone). Trans* women may identify as straight (sexually attracted to men), lesbian (sexually attracted to women), bisexual (sexually attracted to men and women) or asexual (feeling no sexual attraction to anyone). Some people will also identify as pansexual which means they have a sexual or romantic attraction towards people of all gender identities including those that don’t fit into a gender binary.

While gender identity and sexual orientation are very different, there is a relationship between transphobia and homophobia. Trans* people often experience homophobic abuse and lesbian, gay and bisexual people will often experience discrimination based on their gender presentation.

Experiences of Trans Children and Young People

Possible signs of a trans child or young person who may need additional support includes:

- Lack of concentration
- Poor educational performance
- Or conversely, total immersion in school work
- Reluctance to use the school toilets
- Reluctance to do physical exercise especially if it is strongly associated to the assigned birth gender, including a reluctance to use the showers and changing rooms
- Truancy
- Sickness and Absenteeism
- Self-harm
- Often at the receiving end of bullying, sometimes severe often homophobic bullying
- Few friends
- Depression
- Eating Disorders

Of course, some children and young people may exhibit many of the above signs for reasons other than gender identity issues; however they similarly show that the child or young person may be very unhappy and needs further support.

Developing a Whole School Approach

As with any child or children and young people with a protected characteristic a whole school approach is needed to support and keep trans* and gender questioning children, young people, their families and staff safe. Many schools are already working to ensure that their whole school environment is supportive and inclusive by developing:

- A culture and whole school environment that celebrates difference and diversity and one in which all children and young people can see themselves reflected and valued
- Systems and processes which support vulnerable children and young people
- Effective hate incident, anti-bullying and equality policies which ensure the whole school community challenges and tackles bullying and prejudice-based incidents effectively and are confident in challenging sexist and homophobic bullying
- Ensuring the curriculum provides opportunities to challenge stereotypes including those based on gender and avoids making assumptions about sex, gender, gender identity and sexual orientation

To further develop the whole school approach and promote inclusion for trans* and gender questioning children and young people schools should:

- Acknowledge there will be trans people within the school community as parents and carers, staff, governors and children and young people and that they will positively enrich the school community
- Ensure trans issues and transphobia is acknowledged across the school policy framework
- Closely monitor all areas of the curriculum and resources to ensure that they do not perpetuate gender stereotypes or transphobic material

- Ensure that the curriculum and in particular PSE is used to challenge gender stereotypes, support the development of a positive sense of gender identity, develop understanding of trans* issues and prevent transphobia.
- Effectively challenge and deal with transphobic abuse, harassment and bullying (eg name-calling, derogatory jokes, graffiti, unacceptable or unwanted behaviour, intrusive questions) and then monitor incidence of transphobic abuse, harassment and bullying, and use this information to inform whole school developments.
- Include trans issues in equality training for staff and governors
- Create an environment in which all children, young people, staff, governors, families and visitors to the school, whatever their gender identity, feel equally welcome and valued and in which transphobic behaviour is challenged
- Participate in events such as LGBT History Month and ensure visibility of trans people and their achievements
- Provide appropriate support to children and young people who identify as trans and refer them and their families, when needed, to local and National organisations providing appropriate support services.

Transphobic Bullying and Hate Incidents

Trans* and gender questioning children and young people are vulnerable to bullying as is any child or young person who does not conform to perceived gender norms and stereotypes. Additionally children and young people with trans* family members may also be transphobically bullied. Transphobic bullying therefore may be perpetrated by pupils, students, parents, carers or staff members and directed at:

- Trans* children, young people and adults inside and outside the school community
- Children, young people and adults who do not conform to perceived gender stereotypes
- Children and young people with trans* parents, relatives and friends
- Lesbian, gay and bisexual children young people and adults

Schools will need to ensure that the curriculum, assemblies and whole school environment is used to challenge gender stereotypes and binary notions of gender to create a safe learning environment for all children and young people and to prevent bullying and transphobia. There is also a relationship between transphobia, homophobia and sexism. Sexist, sexual or transphobic bullying are not the same as homophobic bullying. However, very often, sexist attitudes manifest themselves in homophobic bullying and any child or young person who is perceived as not expressing stereotypically masculine or feminine traits expected of their assigned sex, might experience homophobic or transphobic bullying. Sexist, sexual or transphobic bullying may also occur in conjunction with other forms of bullying, such as racist bullying or bullying related to special educational needs or disabilities or cyberbullying.

If a transphobic incident occurs in public and the member of staff dealing with it is aware that the child or young person is trans* but they are not out to the rest of the community the member of staff must challenge the prejudice, but may need to take care not to label the incident as

transphobic in front of other children and young people and then as a result 'out' the person being targeted.

There may be occasions where transphobic bullying has wider safeguarding implications, or involve criminal behaviour, and in these cases schools need to engage the appropriate safeguarding agencies and or the police.

Language

Members of the school community should strive to use the preferred pronoun for a trans* child, young person or adult. In addition, staff should think carefully about the language they use and when possible attempt to use language which does not reinforce a binary approach to gender (i.e. there are only males and females).

Staff could reflect on the use of language such as 'ladies' and 'gents', 'girls' and 'boys' to describe groups of children or young people. Firstly, a trans* boy who is referred to as a girl or a trans* girl who is called a boy will feel excluded by this language. Secondly, the language of 'ladies' or 'gents' may give an implicit message about what it is to be a woman/man and therefore reinforces certain stereotypical ideas of femaleness/maleness. It may be preferable to say 'come on Year 8's, off to your lesson now' or 'come on pupils, time to get on with your learning'.

The purpose of this is not to deny gender as an important part of our identity, in fact this can be explored as part of learning in lessons such as PSE; however, care needs to be taken to avoid excluding those who do not see themselves as male or female or make assumptions about someone's gender identity because of how they appear.

Curriculum, teaching and learning

The school environment, curriculum, assemblies and tutor time can all be used to explore issues of sex, gender, gender identity and transphobia and to make visible and celebrate trans* people. Staff will also want to consider teaching and learning approaches that they use which may have the impact of making trans* children and young people feel confused, excluded or uncomfortable. For example, grouping children and young people by gender may have this impact and staff should consider whether this is vital, if and when an alternative approach could be used and how to make it clear that a child or young person who feels safe to do so can be grouped according to their gender identity rather than their biological sex.

There may be times when single gender work is needed. This may include aspects of sex and relationship education or to support the learning needs of particular groups (e.g. boys and literacy). Providing a clear need is identified, the Equality Act allows for such provision. However, for participants it needs to be made clear that they can participate according to their gender identity. For example, a trans* boy could attend a boys reading group if his literacy required targeted support.

Support for the Trans Child or Young Person

Given the spectrum of trans identities and experiences, it is important that any support you offer a trans* child or young person starts with identifying their individual needs. It is important that their identity is validated and supported in any work that you do. An initial conversation would be a good time to allow the child or young person to talk about how they identify or feel about their gender. Remember that any guidance in this document will need to be tailored for each individual child or young person.

'Transition' can mean different things to different people so it is important to find out what this means to the child or young person you are supporting. Broadly speaking, most aspects of transition can be divided into 'social' or 'medical'.

Social transition is choosing to live your life as your preferred gender. This could include:

- A name change
- A change in pronoun (he, she, they, zie etc.)
- Wearing clothes that are associated with their gender identity
- Use of toilets/changing rooms appropriate to their gender identity rather than

biological sex

Medical transition is the process by which a trans* person takes steps to physically alter their body. This may include:

- Taking hormones
- And/or having gender reassignment surgery

Some trans children and young people will be hoping to undergo both social and medical aspects of transition while some will choose just the social aspects.

A child or young person's goals in terms of transitioning may change over time and the support offered needs to reflect and support this. Once you have an understanding of the areas in which a child or young person is planning to transition you can think about how to facilitate these changes at school (see section 9 – Managing Specific Issues). It is vital that the staff team provide informed and consistent support to individuals who choose to present in their chosen or preferred gender. Some children and young people, with support from their families may choose to make a transition into their preferred gender identity at a point when they are changing schools. This may minimise the number of other members of the school community who are aware that the child or young person is trans*. Secondary schools therefore, may need to be particularly aware and supportive of children transferring from a primary to their secondary school who are planning to begin Year 7 with a different name and pronoun. In particular, the school may need to consider how to work with the child or young person and their families from the original primary school who may be aware of this change.

Although a change of school may be a good time to transition for some, it should not be seen as the only opportunity. The right time to trans

Dealing with the questions of staff, children, families and the wider community

There may be many questions that are asked by various people and it is important to be as clear and informative as possible. However, every circumstance is different, due to the unique experience of individual children and their families.

The Gender Identity Research and Education Society (GIREs) have produced some helpful training tools which can be used in school. Staff and governors can also use the materials as part of their Continuing Professional Development. The resources can be found at;

www.gires.org.uk/schools.php

Resources and further support

- Tavistock and Portman Clinic- Gender Identity Development Service
www.tavistockandportman.nhs.uk/childrenyoungpeoplegenderidentityissues
- Mermaids- Family and Individual Support for Teenagers and Children with Gender Identity Issues www.mermaidsuk.org.uk
- Gender Identity Research and Education Society (GIRES) www.gires.org.uk
- Press for Change- The UK's Leading Expert in Transgender Law www.pfc.org.uk
- NHS- Live Well. Support for Young People
www.nhs.uk/Livewell/Transhealth/Pages/Transyoungpeople.aspx
- [Yorkshire LGB&T* Support](#)
- Equality Advisory Service www.equalityadvisoryservice.com
- Equality and Human Rights Commission (EHRC).
EHRC has a wide range of publications including reports and guidance on its website. www.equalityhumanrights.com/

See particularly:

[public functions and associations Statutory Code of Practice](#), 2011

[collecting information on gender identity \(2nd edition\)](#), 2012

- [Gendered Intelligence](#)
- Government Equalities Office (GEO)
The GEO is responsible for equality strategy and legislation across government.
<http://www.gov.uk/geo>

APPENDIX 1:

GLOSSARY OF TERMS

(Extracted from Government Equalities Office Report – November 2015)

Terms and language regarding transgender people and transgender issues are evolving rapidly and many terms may mean different things to different people. The definitions given here are common, but not universal, understandings of these terms.

Acquired gender

The law uses the phrase ‘acquired gender’ to refer to the gender in which a transgender person lives and presents to the world. This is not the gender that they were assigned at birth, but it is the gender in which they should be treated.

Cross-dresser

Someone who wears the clothes usually expected to be worn by someone of the ‘opposite’ gender. Other terms include ‘transvestite’ (now becoming a dated term and disliked by some) and ‘dual role’. A cross-dresser is unlikely to have a full-time identity as a member of their cross-dressed gender and typically does not seek medical intervention.

Gender binary

A binary system allows only two things or states – for example, on/off. In terms of gender, it refers to the either/or categories of male/female that do not allow for, or recognise, other experiences of gender.

Gender dysphoria

Transgender people who seek medical intervention are typically diagnosed with ‘gender dysphoria’ as a first step. Gender dysphoria describes the sense of a strong, persistent discomfort or distress caused by the dissonance between a people’s self-identified gender and the gender they were assigned at birth.

Gender identity

A person’s sense of self as a man, woman, non-binary person or other sense of gender. A person’s gender identity is typically expected to follow directly from the sex they were assigned at birth (based on physical attributes), but this is not always the case.

Gender reassignment

The process of changing or transitioning from one gender to another.

Gender Recognition Certificate (GRC)

A certificate issued under the GRA18 which enables someone to be legally recognised in their acquired gender.

Mis-gendering

You mis-gender someone when you refer to them using a word, especially a pronoun or a form of address that does not correctly reflect the gender with which they identify.

Non-binary person

Someone who does not subscribe to the customary binary approach to gender, and who may regard themselves as neither male nor female, or both male and female, or take another approach to gender entirely.

Transgender (or Trans) person

A broad, inclusive term referring to anyone whose personal experience of gender extends beyond the typical experiences of those of their assigned sex. Amongst others, transsexual people, non-binary people and cross-dressers may all consider themselves transgender people.

Transsexual person

This term is most closely associated with the legally protected characteristic of 'gender reassignment'. A transsexual person may be a person assigned female at birth who has transitioned or is transitioning to live as a man, or a person assigned male at birth who has transitioned or is transitioning to live as a woman. The law does not require a person to undergo a medical procedure to be recognised as a transsexual person. Once a transsexual person has acquired a GRC, they should generally be treated entirely as in their acquired gender.

Transgender man

A transgender man is a female-to-male transgender person who was assigned female at birth but has a male gender identity.

Transgender woman

A transgender woman is a male-to-female transgender person who was assigned male at birth but has a female gender identity.

Transition

The journey a transgender person takes from their assigned gender to the one they know themselves to be. This may refer to social transition (changing name, clothes etc), medical transition (hormones and/or surgery) or both.

DRAFT