

Transgender Policy

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Introduction

1.1 Statement

The White Horse Federation (TWHF) is committed to ensuring equal attitudes and behaviour of all its employees, students and any others involved in the school community, regardless of gender. We will ensure that neither males nor females are treated less favourably in any procedures, practices or aspects of our school environment.

TWHF will not tolerate harassment or ill treatment of people based on their gender or transgender status. We have a responsibility to educate non-transgender students whilst effectively supporting transgender and transgender-questioning students in order to prevent transphobia. The purpose of this guidance is to deeper embed good practice in the field of Transgender work in all of our schools to minimise distress and ensure an inclusive positive environment is achieved.

1.2 Aim and purpose

This guidance is aimed at supporting, informing, protecting, and enabling students to question their gender identity in a safe and non-judgemental atmosphere ensuring all students achieve their full potential while at school by:

- Ensuring teachers and Governors are dealing with Transgender matters inclusively and sensitively
- Providing an inclusive environment for any Transgender student
- Ensuring all students are aware of and educated on issues of Transgender

1.3 Who it applies too

The policy applies to the individual children, their parent/carers, principal, school staff, governing body and The Trust.

2 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 (F2M) person will have the external appearance or body of a female and identify their gender as male; a Male to Female (M2F) person will have the external appearance or body of a male and identify their gender as female.

The word Transgender is sometimes used interchangeably with the term gender-variant but usually has a narrower meaning and different connotations than gender variant, including non-identification with the gender assigned at birth. Children and students that experience or show gender variance may or may not be transsexual, as some will not retain their gender variance following puberty because gender variance can be fluid.

Gender Dysphoria (or Gender Identity Disorder) is a clinical condition that can present from as early as age 2 and can only be diagnosed by a medical and/or psychiatric expert. A person

diagnosed with Gender Dysphoria may require treatment, e.g. hormone blockers (currently not available in the UK under the age of 16), to ameliorate the symptoms associated with being Transgender. A Transgender person may live their life without being or needing to be diagnosed as having Gender Dysphoria.

Diagnosis and treatment for young people is currently only possible through a specialist team. It must be understood that some people with Gender Dysphoria may not want any treatment. Some may choose to be known by a different name or to wear different clothes. However, most or all young Transgender people (and their families) will need some expert support as they grow up and develop.

3 Legislation

3.1 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.

3.2 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

3.3 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.

3.4 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.

3.5 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.

4 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.

5 School Attendance

School will make reasonable adjustments to accommodate absence requests for treatment and external sources in line with their absence policy. Sensitive care will be taken when recording the reason for absence.

6 Transphobia and Bullying

TWHF has a robust anti-bullying policy. In line with this policy, transphobia incidents will be recorded and dealt with in the same manner as other incidents that are motivated by prejudice, e.g. racist or homophobic incidents.

7 Transphobic bullying and incidents

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.

8 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 (ie there are just males and females). Staff could reflect on the use of language such as 'ladies' and 'gents', 'girls' and 'boys' to describe groups of pupils or students. 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 PSHE; 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.

9 Curriculum and teaching and learning

There may be occasions where staff needs to discuss and educate pupils on these issues. This will be done sensitively at an age appropriate level and will seek expert advice prior to this. 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 pupils and students 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 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.

10 Training

School will endeavour to ensure all school staff receive appropriate training in order to deliver appropriate teaching and learning.

11 Changing/Toilet Facilities

The school must take reasonable, practical steps to create access to toilets that corresponds to the student's gender identity. Any pupils or student who has a need or desire for increased privacy, regardless of the underlying reason, should be provided access to a single stall toilet, but no pupil or student shall be required to use such a toilet. In most cases, trans* pupils or students should have access to the changing room that corresponds to their gender identity. This approach is underpinned by the Equality Act 2010 whereby refusing a child or young person access to the changing room of their true gender identity would constitute an act of discrimination. Any pupil or student who has a need or desire for increased privacy, regardless of the underlying reason, should be provided with a reasonable alternative changing area such as the use of a private area.

12 School Uniform

At TWHF schools all students are expected to follow the school uniform policy. There is a generally broad range of uniform available for both genders (i.e. girls and boys can wear trousers).

13 Pronoun Name Changing and Exam Certification

If a Transgender student wishes to have their preferred name recognised on school systems, this will be supported and will feed on to letters home, report cycles, bus pass information etc. Furthermore, the change of name and associated gender identity will be respected and accommodated by the school. It is a real indicator that the Transgender student is taking steps to, or proposing to move towards a gender they feel they wish to live in. Technically, students can be entered under any name with an Examination Board. However, it is a very complex matter. Once a result is accredited it will need to be linked with a Unique Pupil Number (UPN) or Unique Learner Number (ULN) which existed in the school census information submitted in January of the examination year. UPNs and ULNs are only linked with legal names, not preferred names. It is possible for examination certificates to be issued in the preferred name, but any young person finding themselves in this position should discuss this issue with school and parents or guardians to ensure the best way forward.

Respecting a child or young person's request to change name and pronoun is a pivotal part of supporting and validating that young person's identity. It is also important to consistently use preferred pronouns and names in order to protect a child or young person's confidentiality and to not 'out' them in ways that may be unsafe and exposing.

14 School Visits

Learning about different cultures and lives and taking part in activities may lead to overnight stays, both at home and abroad. Issues may arise for both young Transgender students and other students but this must not mean Transgender students cannot be included on the visit. School will give consideration well in advance of any additional needs which may include having a parent or guardian (or member of staff) accompanying the visit to ensure the Transgender student is fully included. The sleeping arrangements will be considered before a visit is undertaken; it is possible that the Transgender student would prefer to have a separate room etc. Each individual case and visit needs to be considered separately and in depth discussions will happen well in advance, with all appropriate bodies, linked to the accommodation available.

15 Risk Assessments

Risk assessment will be completed for any activity impacted by this policy.

16 Supporting the whole school community to have a positive understanding of transgender people

All schools need to work towards a robust whole school approach towards developing an understanding of trans* issues and prevention of transphobia, which will minimise the potential of issues or concerns being raised by cisgender members of the school community including parents and carers about trans* children and young people accessing toilets, residential facilities etc according to their gender identity rather than their biological sex. Raising awareness of the school's approach to transphobia and supporting trans* and gender questioning children and young people can be done through school newsletters and websites by for example:

- Providing information about PSHE lessons on gender stereotyping, gender identity and trans* issues

There will be cases where a child or young person's trans* identity is not widely known and the school should seek to protect this information, unless the trans* child or young person wishes it to be known. Where a child's trans* identity is known to the wider school community schools will need to ensure that they have a robust language using the Equality Act and a Human Rights approach to counteract any prejudice expressed or concerns raised. Additionally, when a parent or carer raises a concern about the safety of their child when spending time in the company of a trans* identified pupil or staff member it is vital that staff focus on the 'problem' being with the person who raises the concern and not with the trans* individual. Therefore, support work should be aimed at answering the question 'how can we make your child feel more safe?' rather than compromising the rights of the trans* person.

Scenario 1) My daughter doesn't want a boy changing next to her, what if he looks at her body?

For example, in this scenario it would not be appropriate to remove the trans* person from the changing rooms if a concern is raised by a parent or carer. In this situation, it would be far more appropriate to look at offering an alternative changing arrangement for the child who feels uncomfortable around the trans* person. A Human Rights response would be to state that

although the individual in question may have the body of a boy, they are in every other respect a girl and as such have the right under the Equality Act to change with the girls and to be treated fairly as such. It is the responsibility of members of staff to support both trans* students and cisgender students to feel comfortable around one another.

17 Code of conduct

This policy is to be adopted across the TWHF and should be complied with by all schools. It is understood that, in some circumstances, local conditions mean that delivery will require local specific changes in the procedures by agreement with the Trust. However, the core essence of the policy must be followed.

18 Monitoring and Review

TWHF will review the content of this policy on an annual basis in line with its policy review process and statutory requirements.

The Policy owner will make and consult on any changes. These will be ratified by a designated Senior Leadership Team member or CEO.

Changes will be updated on the Trust's website and disseminated to all schools.