

Isle of Wight Council

LGBT+ (Lesbian, Gay, Bisexual, Trans, Plus)

GUIDANCE

Policy Information	
Policy Title	LGBT+ Guidance
Policy Purpose	To provide an informative framework on LGBTQ+ to enhance inclusion across the authority
Policy Contact	Judy Mason Judy.mason@iow.gov.uk
Policy Date	May 2022
Supersedes	• Trans Policy
Consultation	Consulted and agreed with all recognised Trade Unions
Scope	This guidance applies in its entirety to all Council employees, including schools. Where appropriate, this policy will be updated to account for any changes in legislation without further consultation. This policy is non-contractual and therefore does not form part of the employee's contract of employment (and the Council reserves the right to amend or replace this policy at any time).

If you have difficulty understanding this document, please contact us on 01983 821000 and we will do our best to help you.

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1 Introduction

This policy is based on guidance and best practice issued by the Equality and Human Rights Commission (EHRC), ACAS and UNISON.

Becoming an employer of choice is a key goal for the Isle of Wight Council and it is therefore vital that we are able to recruit and retain skilled staff with values that reflect our own from across the communities we serve. This includes ensuring that LGBT+ people are welcomed and respected and that our policies do not unintentionally operate in ways that discriminate against LGBT+ staff.

Ensure that services are supported to ensure they are able to comply with legal requirements contained in the Equality Act 2010 and wider Acts as outlined in section 1.2 below. This policy also sits alongside the [Equality Policy and Statement](#).

Appendix 1 shows some useful terms which we encourage everyone to familiarise themselves with.

If an employee is in possession of a Gender Recognition Certificate it is unlawful to disclose their previous gender status without their consent.

1.1 Commitment

We are committed to creating an environment where the sexual orientation, gender identity and marriage/civil partnership status of all employees and service users are respected, and where all are afforded dignity and equal rights.

We also recognise and value the diversity of LGBT+ people themselves, who are of every age, race, nationality, religion, disability, occupation, and family situation.

The council's commitment is further demonstrated within the [Equality Policy and Statement](#).

1.2 Legal Framework

The Equality Act 2010

The Equality Act 2010 (The Act) protects people on the basis of **gender reassignment**, **sexual orientation** and **marriage or civil partnership** from direct and indirect discrimination and harassment. This includes discrimination by association or perception.

The Act also places a proactive duty on public organisations through the Public Sector Equality Duty (PSED) to promote equality of opportunity, foster good relations and eliminate unlawful discrimination between people who have the protected characteristic and people who do not.

The Act states that:

Gender Reassignment

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 for reassigning the person's sex by changing physiological, or other attributes of sex.

A reference to a transgender person is a reference to a person who has the protected characteristic of gender reassignment.

i) Discrimination

For example, if a person is treated less favourably because of their protected characteristic.

ii) Harassment

For example: a person engages in unwanted conduct against another person related to a relevant protected characteristic, which has the purpose or effect of violating the other person's dignity, or creating an intimidating, hostile, degrading, humiliating or offensive environment for the other person.

The process of transition can be very stressful requiring support and sympathetic handling from all concerned, and there is an obvious need to adopt the right approach in the workplace where the transition can have significant impact both upon the individual and upon colleagues.

Sexual orientation

Sexual orientation means a person's sexual orientation towards—

- (a) persons of the same sex,
- (b) persons of the opposite sex, or
- (c) persons of either sex.

In relation to the protected characteristic of sexual orientation—

- (a) a reference to a person who has a particular protected characteristic is a reference to a person who is of a particular sexual orientation;
- (b) a reference to persons who share a protected characteristic is a reference to persons who are of the same sexual orientation.

Marriage and civil partnership

A person has the protected characteristic of marriage and civil partnership if the person is married or is a civil partner.

In relation to the protected characteristic of marriage and civil partnership—

- (a) a reference to a person who has a particular protected characteristic is a reference to a person who is married or is a civil partner;

(b) a reference to persons who share a protected characteristic is a reference to persons who are married or are civil partners.

Further Acts aside from the Equality Act to consider in respect of LGBT+ individuals are;

- [Gender Recognition Act 2004](#)
- [Data Protection Act 1998](#)
- [The Human Rights Act 1998](#)
- [Marriage \(Same Sex Couples\) Act 2013](#)

In addition to the above, there are other policies, procedures and Acts that have a direct or indirect impact on the LGBT+ community and therefore, this is not an exhaustive list.

1.3 Everyone's responsibility

- To provide a supportive environment for LGBT+ employees and service users who wish it to be known they are LGBT+ and respect the confidentiality of those who do not
- To recognise that to 'out someone' without their permission is a form of harassment and we will treat it as such as per the [Bullying and Harassment \(Protection from\) Policy](#)
- To enhance our own knowledge of appropriate terminology
- To ensure concerns are appropriately reported and in a timely way
- To use [pronouns](#) appropriately to ensure you are addressing and referring to employees and service users correctly (see appendix 2 for further guidance on pronouns)
- Correcting/educating individuals who may not be as aware of the term LGBT+ to ensure an inclusive and educated environment

1.4 Responsibility of Management

If individuals would like to speak to their management (extending the invite to trade union or work colleague if they wish) to discuss any aspect of LGBT+ we suggest the following;

- Whether the employee wishes to inform their colleagues themselves of any relevant issues or would prefer this to be done for them – this will person specific and therefore, should be led by the employee. You will need to explicitly agree;
 - What will be shared with colleagues (if anything)
 - When this will be shared
 - How this will be shared
- What they would like to be shared with their clients/service users (again considering; what, how and when) with explicit consent
- What training/awareness the team could have/be reminded of – to ensure maximum awareness and recognition is in place although recognising that staff may occasionally get this wrong and therefore, education is essential
- The expected timescale and time off for medical and surgical procedures (there is no statutory minimum/maximum entitlement so flexibility should be used with [Special Leave](#),

[Annual Leave](#) and Flexi time. Sickness absence may also be used/needed although this will be managed as per the [Attendance Management Policy](#)

- Agreeing a procedure for adhering to any dress code as set by the service area
- *For trans employees*; agreeing the point at which the individual will commence using single sex facilities in their new gender (such as toilets and changing areas) - It is advised that the individual starts to use the facilities for their new gender at the point where they begin to live in that gender, irrespective of the progress of surgical procedures
- *For trans employees*; record keeping/system changes required and agree what those changes may be and from when (including ID badge, email address, HR/Payroll/Pension systems – see below)
- *For trans employees*; if the individual is able to fulfil their role (during surgery/transition) or, whether they could be temporarily redeployed during this period (a risk assessment may be required to ascertain this). If they are unable to fulfil their role during this time or after, please liaise with your HR Advisor before issuing notice or terminating employment

1.5 Data/record keeping for trans employees

Trans employees should not be made to obtain, nor made to feel that they should obtain, a Gender Recognition Certificate. Many trans people wish to keep their transgender status private, whilst others are willing to discuss it confidentially or even openly. There is no obligation on a trans person to disclose their status as a condition of employment.

Pensions

A trans person who has received a full Gender Recognition Certification (GRC) will be treated according to their acquired gender for state pension purposes. This means that their state pension age will be the same as for other members of their acquired gender. Trans individuals who do not obtain a full Gender Recognition Certificate retain their state pension rights in accordance with the sex that is recorded on their birth certificate.

Payroll/HR/ICT and Post Room

What	HR requirements (SAP)	Payroll requirements (payslip)	ICT requirements (email/login etc.)	Post room requirements (ID badge etc)
Title	Email to HR@iow.gov.uk	None – this will carry through from HR's update	None – this will carry through from HR's update	Not shown on ID cards. *except schools. Post Room ask what they want stated.
Gender	Although SAP enables a change, HMRC only recognise two genders and therefore, SAP cannot be amended	None – cannot be amended due to HMRC restrictions	N/A – doesn't appear on ICT records outside of SAP	N/A – doesn't appear on name card.

	due to these restrictions			
Nickname/known as name	Email to HR@iow.gov.uk	None – this will carry through from HR's update	Notification of change form to pull through to the relevant areas of ICT.	Not allowed on ID cards unless shortened version of name
Full formal (legal) name	Notification of change form plus, a letter from the GP or gender specialist confirming that they are undergoing gender reassignment or, evidence of change of name – in the form of any of the following: A Name Change Deed (e.g. Statutory Declaration); Gender Recognition Certificate, Driving licence, Passport.	None – this will carry through from HR's update	None – this will carry through from HR's update	Change through SAP or, an email from management to confirm the change.

On receiving formal documentation, you should ensure that public references (such as telephone directories, prospectuses, web biographies) and employment details reflect the acquired gender of the person. This will prevent any breach of confidentiality. Where documents have been seen and copies taken at the point of starting employment (such as a birth certificate) then every effort should be made to replace those with equivalent documents in the new name and gender. It is the responsibility of the employee to provide new versions of documentation.

To maintain confidentiality, where possible new records should be produced; for instance the cover of a personnel file should be replaced and a new name included rather than the old file have the name crossed out and replaced. In some instances, however, it may be necessary to retain records relating to an individual's identity at birth, for example, for pension or insurance purposes prior to obtaining gender recognition. It should be noted that once a person has obtained a Gender Recognition Certificate these **MUST** be replaced with new details; however, it is the responsibility of the employee to provide updated documentation e.g. qualification certificates.

Proof of Identify/Certificates/References

There should be enough scope for trans applicants to provide documentation in their acquired gender. Where evidence of educational qualifications or references will disclose a previous name and therefore previous gender identity, then total confidentiality must be respected and measures taken to ensure it.

Exceptions

There are also some limited temporary exceptions which apply during the process of gender reassignment only, for example, if a post requires the holder to provide vulnerable individuals with personal services, and the employer reasonably believes those services cannot be effectively provided by someone undergoing gender reassignment. This exception will apply only in very rare circumstances, for example if the patient/service user does not have the capacity to consent. This would not, however, apply to someone with a full Gender Recognition Certificate.

Disclosure and Barring Service (DBS)

DBS applications should not be a problem. There is a special process which can be followed in order to avoid the problems that would otherwise be faced in complying with the requirement to make truthful statements and revealing gender history. The DBS has a dedicated number for Transgender people to ring which is 0151 676 1452 or email sensitive@db.s.gsi.gov.uk

Disclosures sent will not reveal the applicant's former identity unless they have an offence or caution that is not 'protected' (as defined by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended in 2013)) that has been recorded in that name in police records. If this happens the Police National Database (PNC) will automatically print these off in the old name under the new name and gender on the form. In this instance the DBS office (if they have been contacted prior to the DBS submission via the contact details above) will stop the process and get in touch with the trans person, allowing them time to change their details on the PNC. They will then issue the certificate with all names the same.

Protection

Protection applies from the moment at which the person indicates their intention to start the reassignment process and covers recruitment, transfer, training and promotion, access to work-related benefits, facilities and services, dismissal, and any other associated detriment. It is also unlawful to instruct someone else to do something discriminatory – for instance, telling an employment agency not to hire a trans person.

The trans person who changes gender before entering employment is under no obligation to either inform management or colleagues of their gender reassignment. If however they choose to voluntarily disclose their change of gender at the recruitment stage, or to Human Resource advisors, this information must not be disclosed further without the specific authorisation of the individual concerned.

1.6 Training

Training is available via the [Learning Hub](#) including Protected Characteristic training. For any queries around available training on LGBT+ identities please contact learning.development@iow.gov.uk

2 Appendices

2.1 Appendix 1 - Definitions commonly used regarding Trans people

Word	Description
AFAB/AMAB	Assigned female at birth/assigned male at birth.
Bisexual	“Bi is an umbrella term used to describe a romantic and/or sexual orientation towards more than one gender. Bi people may describe themselves using one or more of a wide variety of terms, including, but not limited to, bisexual, pan, queer, and some other non-monosexual and non-monoromantic identities.” - Stonewall
Cis/cisgender	“Someone whose gender identity is the same as the sex they were assigned at birth.” - Stonewall
Gay	“Refers to a man who has a romantic and/or sexual orientation towards men. Also a generic term for lesbian and gay sexuality - some women define themselves as gay rather than lesbian. Some non-binary people may also identify with this term.” - Stonewall
Gender	“Often expressed in terms of masculinity and femininity, gender is largely culturally determined and is assumed from the sex assigned at birth.” - Stonewall
Gender dysphoria	“Used to describe 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 doesn’t feel comfortable with the sex they were assigned at birth.” - Stonewall
Gender identity	“A person’s innate sense of their own gender, whether male, female or something else (see non-binary below), which may or may not correspond to the sex assigned at birth.” - Stonewall
Gender reassignment	“Another way of describing a person’s transition. To undergo gender reassignment usually means to undergo some sort of medical intervention, but it can also mean changing names, pronouns, dressing differently and living in their self-identified gender. Gender reassignment is a characteristic that is protected by the Equality Act 2010, and it is further interpreted in the Equality Act 2010 approved code of practice.” - Stonewall

Gender Recognition Certificate (GRC)	“This enables trans people to be legally recognised in their affirmed gender and to be issued with a new birth certificate. Not all trans people will apply for a GRC and you currently have to be over 18 to apply.” - Stonewall
Intersex	“A term used to describe a person who may have the biological attributes of both sexes or whose biological attributes do not fit with societal assumptions about what constitutes male or female. Intersex people may identify as male, female or non-binary.” - Stonewall
Lesbian	“Refers to a woman who has a romantic and/or sexual orientation towards women. Some non-binary people may also identify with this term.” - Stonewall
Non-binary	“An umbrella term for people whose gender identity doesn’t sit comfortably with ‘man’ or ‘woman’. Non-binary identities are varied and can include people who identify with some aspects of binary identities, while others reject them entirely.” - Stonewall
Pansexual	Sexual attraction towards a person regardless of their gender identity or biological sex.
Pronouns	“Words we use to refer to people’s gender in conversation - for example, ‘he’ or ‘she’. Some people may prefer others to refer to them in gender neutral language and use pronouns such as they/their and ze/zir.” - Stonewall
Sexual orientation	“A person’s sexual attraction to other people, or lack thereof. Along with romantic orientation, this forms a person’s orientation identity.” - Stonewall
Trans/transgender	“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 (GQ), gender-fluid, non-binary, gender-variant, crossdresser, genderless, agender, nongender, third gender, bi-gender, trans man, trans woman, trans masculine, trans feminine and neutrois.” - Stonewall

Transition	Transition includes some or all of the following cultural, legal and medical adjustments; telling one's family, friends, and/or co-employees; changing one's name and/or sex on legal documents; hormone therapy; and possibly (though not always) some form of surgical alteration. Not all trans individuals transition in the same way; some may transition in some respects but not others; it is an individual choice.
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2.2 Appendix 2 – Pronouns

Why use pronouns?

Often, people make incorrect assumptions about the gender of another person based on the person's appearance or name. These assumptions aren't always correct, and the act of making an assumption (even if correct) sends a potentially harmful message that people have to look a certain way to demonstrate the gender that they are or are not.

Using someone's correct personal pronouns is a way to *respect them* and create an *inclusive environment*, just as using a person's name can be a way to respect them.

It is about respecting the individual's choice and not casting your own views or assumptions.

What are pronouns?

Pronouns are used when referring to someone in the third person, for example;

She/Her: "**She** is a writer and wrote that book **herself**. Those ideas are **hers**. I like both **her** and **her** ideas."

He/Him: "**He** is a writer and wrote that book **himself**. Those ideas are **his**. I like both **him** and **his** ideas." -

They/Them: "**They** are a writer and wrote that book **themselves**. Those ideas are **theirs**. I like both **them** and **their** ideas."

Ze/Hir: "**Ze** is a writer and wrote that book **hirsself**. Those ideas are **hirs**. I like both **hir** and **hir** ideas."

As well as pronouns the person's title, such as; "Mr", "Mrs", "Miss", "Ms" and "Mx" should also be understood and respected.

What if you get pronouns wrong?

Purposely *choosing* not to use an individual's pronouns despite being made aware is upsetting, distressing and disrespectful.

Often people do not incorrectly use pronouns maliciously, it is usually based on a lack of awareness, knowledge or understanding.

It is important to recognise and understand someone's pronouns. Often someone's pronouns are added to their email signature. In instances where you are not aware of someone's pronouns, you can simply ask so that you can correctly address the individual.

If you accidentally use the incorrect pronouns, correct yourself, apologise and move on.