

Title of Report:	Consultation – Local Government Staff Commission (LGSC) Model Policy Trans Equality
Committee Report Submitted To:	Corporate Policy and Resources Committee
Date of Meeting:	30 January 2024
For Decision or For Information	FOR DECISION
To be discussed In Committee YES/NO	No

Linkage to Council Strategy (2021-25)	
Strategic Theme	Cohesive Leadership
Outcome	Council operates as one effective and efficient corporate unit with a common purpose and culture
Lead Officer	Director of Corporate Services

Budgetary Considerations	
Cost of Proposal	
Included in Current Year Estimates	YES/NO
Capital/Revenue	
Code	
Staffing Costs	

Legal Considerations	
Input of Legal Services Required	NO
Legal Opinion Obtained	NO

Screening Requirements	Required for new or revised Policies, Plans, Strategies or Service Delivery Proposals.		
Section 75 Screening	Screening Completed:	No	Date:
	EQIA Required and Completed:	No	Date:
Rural Needs Assessment (RNA)	Screening Completed	No	Date:
	RNA Required and Completed:	No	Date:
Data Protection Impact Assessment (DPIA)	Screening Completed:	No	Date:
	DPIA Required and Completed:	No	Date:

1.0 Purpose of Report

- 1.1 The purpose of the report is to provide Members with the opportunity to formulate a response to the Local Government Staff Commission (LGSC) Trans Equality Policy. (Appendix 1)

2.0 Background

Following CPR Committee meeting on 28th November 2023, Council resolved:

“To recommend to Council that the Director of Corporate Services request an extension to the deadline of 19th January 2024 in order to allow the Committee to fully consider the consultation”

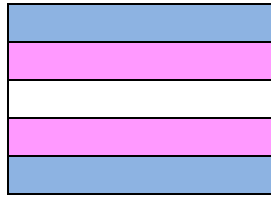
LGSC confirmed that the consultation period and invite for feedback period on the Trans Equality Policy has been extended until COB Tuesday 13th February 2024.

3.0 Further information

Appendix 2 provides details of the ODHR response to the consultation, previously submitted.

3.0 Recommendation

It is recommended that Corporate Policy and Resources Committee, in line with the decision of Council on 5th December 2023, *consider the consultation to facilitate further discussion and to formulate a response.*



Local Government Staff Commission

MODEL POLICY

TRANS EQUALITY

Trans Equality Policy

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1. Commitment to Trans Equality

The Council is committed to promoting equality, diversity and good relations in everything it does as a community leader, as a provider, and as an employer.

The Council is committed to equality of opportunity for trans people throughout recruitment and employment, including supporting transgender employees through any transitioning process. Discrimination, victimisation or harassment on the basis of a person's gender identity, gender expression or trans status will not be tolerated.

The Council seeks to provide a supportive environment for trans employees and to create a culture and environment where they feel comfortable and are well supported during any process of transition. The purpose of this policy is to provide managers and employees with practical information on workplace support.

As well as ensuring that transgender employees are fully supported, the Council will seek to demonstrate its commitment to trans equality in related policies, processes and activities.

2. Definitions

2.1 Trans

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.

2.2 Gender Reassignment

A process which is undertaken under medical supervision for the purpose of reassigning a person's sex by changing physiological or other characteristics of sex, and includes any part of such a process.

2.3 Transitioning

The steps a trans person may take to live in the gender with which they identify. Each person's transition will involve different things. For some 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.

The Council recognises there is no right or wrong way to transition and is committed to supporting each individual in their decisions.

Refer to Appendix A for a glossary of common terms.

3. Employees Who Are Transitioning at Work

If an employee states that they are intending to transition, their manager (in conjunction with other appropriate colleagues) should aim to make this process as smooth as possible. Managers should be aware that it can be an extremely difficult step for someone to approach their manager about transitioning and that the employee is likely to worry about the response.

The transition process will be led by the individual concerned. However, managers should ensure that the employee is supported and respected throughout the process.

3.1 Telling Colleagues

The manager and employee will discuss the individual's choices in relation to informing others, including other managers, colleagues, service users and other relevant contacts. They will agree whether the employee will do this, whether they would prefer the manager or a work colleague to do this, or a mixture of these options. They will also get express written agreement from the employee about when and how this will happen, including details of the message and who it will be shared with. Levels of disclosure may vary in detail for different types of contacts and will be agreed in advance.

3.2 Uniforms and Dress Codes

If a uniform and/or Personal Protective Equipment (PPE) is in place for the role, managers will ensure that the trans employee has access to the uniform that is most appropriate at all times. Some trans employees may need access to both the male and female uniforms. Managers will be flexible in supporting the preferences of the trans person wherever possible. Trans employees have the right to comply with any dress codes in a way that reflects their gender identity and gender expression, and this may change over time.

3.3 Changing Facilities, Toilets and Other Single Gender Facilities

Trans people are entitled to use single gender facilities in accordance with the gender in which they identify. For non-binary people, this might mean using gender-neutral or accessible facilities or using a combination of different facilities. However, trans people will never be required to use accessible toilets unless they wish to do so.

3.4 Updating Records

Electronic and paper records will be updated where possible and in a timely manner, to coincide with the date on which the employee's workplace transition begins. Care will be taken to ensure that records do not link back to the former name. For instance, this may entail creating a new employee file or a new email address rather than simply changing the name on the existing one. The manager and employee will work together to ensure that nothing is missed by using the checklist at Appendix B. A new ID card with the correct name and a new photograph will be issued.

Where it is not possible to update a record e.g. pre-employment checks undertaken when the employee was first employed, it will be stored in a secure place and access will be restricted to authorised individuals.

3.5 Customer Facing Roles

An employee in a customer facing role who is transitioning may wish to request to be redeployed either on a temporary or permanent basis. In these circumstances, managers

should seek advice from HR.

3.6 Absences for Appointments, Treatment and Surgery

Time off to attend transition-related appointments and treatment will be managed in line with the provisions of the Council's appropriate policy. Employees may wish to consider a temporary change to their working arrangements during this process and managers will accommodate such requests where possible.

In addition, trans employees are entitled to the same sickness absence and pay as other staff in accordance with the Councils appropriate policy.

3.7 Support Plan or Checklist

The trans employee and their manager might find it helpful to put in place a support plan or agree a checklist to clarify the actions that will be taken over the course of the employee's transition, dates by which these will be done, and the person who will take responsibility. Please refer to checklist at Appendix B for an example, which can be modified to suit the individual's needs.

4. Discrimination and Abuse

The Council has a zero-tolerance approach towards discrimination and harassment based on gender identity, gender expression or gender history. Inappropriate behaviour or language may constitute discrimination, harassment, bullying or victimisation. Discrimination including harassment and victimisation are covered by the Sex Discrimination (NI) Order 1976, as amended. Managers are responsible for taking timely action where misconduct occurs on the grounds of an employee's gender identity.

4.1 Monitoring Discrimination and Abuse

The Council will monitor all incidents of alleged discrimination, harassment and bullying and will review the effectiveness of this policy at least once every three years. Where such monitoring or review identifies any areas for improvement, an action plan will be developed to address the issue.

5. Legal Protection for Trans People

Individuals are protected from discrimination on the grounds of their gender identity through the following legislation:

5.1 Sex Discrimination (NI) Order 1976, as amended

The Sex Discrimination (NI) Order 1976, as amended makes it unlawful for an employer to treat a person (i.e. a job applicant, an employee) less favourably than others on the grounds that the person has transitioned, are transitioning, or planning to transition.

5.2 Employment Rights (NI) Order 1996

Trans people have the same statutory rights as every other person under the Employment Rights (NI) Order 1996.

5.3 Gender Recognition Act 2004

The UK Gender Recognition Act (GRA) enables people aged over eighteen to gain full legal recognition of their acquired gender and to be issued with a new birth certificate. Applications are considered by the Gender Recognition Panel. Once a person receives a Gender Recognition Certificate (GRC), that person's gender is deemed for all legal purposes to be the acquired gender, subject to some permitted statutory exceptions.

Most employment rights do not depend on whether a person has a GRC, and a person does not normally need to have a GRC to be eligible to complain of gender reassignment discrimination, so long as they are otherwise within the protected gender reassignment group.

The Gender Recognition Act gives anyone applying for or holding a GRC particular privacy rights. It is a criminal offence to pass on information acquired 'in the course of official duties' about someone's gender recognition without the consent of the individual affected. 'Official duties' include employment, trade union representation or supply of business or professional services.

The general non-disclosure rule is subject to some statutory exceptions - [Gender Recognition \(Disclosure of Information\) \(England, Wales and Northern Ireland\) \(No.2\) Order 2005](#)

Employees are protected from unfair treatment in recruitment and during all aspects of employment.

5.4. Genuine Occupational Requirements

In most cases, the gender of an employee is of no relevance to their ability to do a particular job. If this is the case for an employee who is transitioning or has transitioned at work, managers should seek advice from HR.

6. Recruitment

People who are transitioning or have already transitioned have no obligation to disclose their gender history. Applicants should only be asked their gender identity in the following situations during the recruitment process:

- Where a question about gender reassignment or gender identity has been included on the Monitoring questionnaire
- Where criminal record checks are required for certain posts
- When Councils wish to apply sex and gender reassignment based genuine occupational requirements in relation to certain posts

Neither is there any obligation for a trans person to disclose this as a condition of employment. If they choose to disclose, this is not in itself a reason for not offering employment, and non-disclosure or subsequent disclosure is not grounds for dismissal. Recruiting managers who become aware that an applicant is trans will maintain full confidentiality.

6.1 References

Where a reference request is received for an existing or former employee who is transitioning or has transitioned, managers will respect the employee's privacy and only respond using the employee's correct name and gender in the reference.

Disclosure on sickness absence will not include time taken off for medical appointments related to transition. This information is strictly confidential.

Where the Council requests a reference or confirmation of continuous service with other local government employers, the request will be made using the prospective employee's correct name and gender since transitioning. Previous names or gender identity will not be referenced, unless specifically asked to do so (in writing) by the trans person.

6.2 Access NI checks

Where an appointment requires an Access NI check, managers are responsible for initiating and completing these in conjunction with the individual. Access NI have a special application process for transgender people who don't want to reveal their previous gender and names to the organisation requiring the disclosure and advice can be obtained from Access NI by contacting the Operations Manager via email ani@accessni.gov.uk or by calling helpline 0300 200 7888.

6.3 Qualification Certificates and Right to Work Documents

Where an employee is required to provide evidence of an essential qualification certificate or a right to work document as part of the Council's pre-employment checks and it is in their former name, a copy of the certificate or document will be stored securely on the employee's personal file and access restricted to authorised individuals.

6.4 Professional Registration

If the employee's job involves professional registration, the manager will check whether the registration body has a specific, confidential process for gender transition.

7. Roles and Responsibilities

7.1 Employee

- Engaging with managers and HR around the logistics of and approach to transitioning in the workplace.
- Reporting any instances of harassment, victimisation or discrimination in line with the Grievance Policy.

7.2 Manager

- Ensuring that colleagues are informed about the employee's transition in a manner that is agreed with and best suits the employee.
- Maintaining confidentiality at all times.
- Thoroughly investigating any instances of harassment, victimisation or discrimination in line with the Grievance Policy.
- Supporting the employee in any way that is necessary and appropriate.

7.3 HR/Learning and Development

- Providing advice to managers in relation to this policy.
- Maintaining confidentiality, including securing electronic, paper records and issuing updated ID card.
- Providing trans and non-binary equality training as part of the equality training modules.

7.4 IT Department

- Changing names, titles and pronouns on email and other systems.

7.5 Trade Unions

- Supporting the employee as necessary and valuable input into policy content / good practice for employers.

8. Support for Employees with a Family Member who is Transitioning

- If an employee is supporting a family member who is transitioning, they may need to take time off to support them during the process. Where possible, managers should try to support employees to manage such requests using the appropriate policies.

9. Glossary of Terms

Appendix A

Gender Binary: the classification of sex and gender into two distinct and disconnected forms of masculine and feminine.

Gender Expression: How a person chooses to outwardly express their gender, within the context of societal expectations of gender. A person who does not conform to societal expectations of gender may not, however, identify as trans.

Gender Fluid: Having a gender identity which varies over time.

Gender Identity: A person's deeply felt internal and individual experience of gender, which may or may not correspond to the sex assigned to them at birth.

Gender Reassignment:

A process which is undertaken under medical supervision for the purpose of reassigning a person's sex by changing physiological or other characteristics of sex and includes any part of such a process.

Gender Recognition Certificate:

This enables trans people to be legally recognised in their required 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.

Legal sex: The sex recorded on your birth certificate. Currently binary in the UK. Changed by applying to Gender Recognition Panel who will issue the applicant with a GRC.

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.

Trans: 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.

Who needs to know?

	Who will tell them and how?	When?	Date completed
Manager	Employee arranges a virtual or in person meeting.		
Senior manager	Line manager arranges a virtual or in person meeting.		
HR/IT Department	Manager should email a HR Manager and IT Manager and specifically title the email 'Trans Equality'.		
Team members	See above.		
Other colleagues	See above.		
Others (specify)	See above.		

Changes to records

	Who will do this and how?	When?	Date completed
HR records/ID Card	See above.		
IT systems including email/website	See above.		
Trade union membership (if applicable)	Employee by contacting their trade union directly.		
Pension scheme	The Payroll Team will be advised of the change by HR.		
Other:			

Details of meetings

Date	Comments	Actions	Date of next meeting

Trans Equality Policy – Feedback

- 2.3 Could include reference to ‘social transitioning’
- 3.3 In reference to feedback from Leisure Directorate re facilities and Equality Commission feedback
- 3.4 Impact on internal processes
- 3.5 Implications on processes i.e. OH/ redeployment/availability of suitable roles
- 3.6 Will this be considered essential or elective? What are the options? What are the legal obligations?
- 4.1 Or as legislation changes
And steps under the appropriate policy to address/resolve
- 5.3 Type ‘recognition’
- 6 Recruitment – in terms of documentation amendments
Will this need to be updated in Sickness Policy per 6.1?
- 7.1 Sharing of information/individual preferences
Supporting in line with other relevant policies
- 7.2 Supporting in line with other relevant policies
7.1. & 7.2 references to Grievance policy specifically may indicate that we anticipate issues arising
- 7.3 Providing advice in relation to other appropriate policies which may become necessary
- 7.5 “providing” valuable input
- 8. Could reference unpaid forms of leave, special leave, annual leave etc. Would there be an expectation of paid support?

Some duplication Section 2 & 9