

Devonshire Road Primary School



Transgender Policy

Policy updated by Miss G Brockless (Equality TLR)
May 2023
(Adapted from the Bolton Safeguarding suggested policy)

Next review: Autumn 2024

Introduction

Gender is often an important part of an individual's identity and developing a positive sense of gender identity is part of growing up. However, gender identity is often complex and there is a spectrum of gender which is wider than just boy/man or girl/woman.

The World Health Organisation states that: *Gender refers to the socially constructed characteristics of women and men – such as the norms, roles and relationships that exist between them. Gender expectations vary between cultures and can change over time. It is also important to recognise identities that do not fit into the binary male or female sex categories. Gender norms, relations and roles also impact the health outcomes of people with transgender or intersex identities.*

Practice to support transgender pupils is embedded across school policies and curriculum and build on best practice already in place to eliminate discrimination, harassment and victimisation; advance equality of opportunity and foster good relations. This policy seeks to provide a broad overview of the needs of transgender pupils and their families within our country's legislation (see page 6 of policy).

Principles

In developing practice to support transgender pupils, schools should try to follow these principles:

- Listen to the pupil, their parents, carers and siblings. Wherever possible follow their lead and preferences.
- No pupil should be made to feel that they are the ones who are causing problems or that they owe anything to their school in return for being treated with the equality they deserve and are legally entitled to.
- Avoid seeing the pupil as a problem and instead see an opportunity to enrich the school community and to challenge gender stereotypes and norms on a wider scale.
- Avoid where possible gender segregated activities and where this cannot be avoided, allow the pupil to access the activity that corresponds to their gender identity.
- Challenge bullying and discrimination.
- Promote positive attitudes to gender diversity by including transgender issues within activities relating to discrimination, hate crime, diversity, inclusion, SRE and PSHE.

Supporting the individual trans, non-binary or gender exploring child or young person

It is vital that children are met with kindness, compassion and the support needed in order to keep them safe and well. It is important for education settings to see all aspects of a child's identity and experience in thinking about how to best support and respond. Each journey will be unique. If one of

our pupils makes the decision to come out to a member of staff, we will recognise that they see this as a big step in their journey and we follow the pathways below (as suggested from [Brighton and Hove](#)). We will:

- Acknowledge what they say, be empathic and thank them for speaking with us.
- Know that if we aren't sure about terms the young person is using it is okay to ask. A first step may be to gently ask some questions 'Can you tell me more about how you feel...?' 'How long have you been thinking this...?' 'Have you spoken with anyone else / family members...?'
- Seek permission from the pupil to share the disclosure with a trained member of staff or support the child or young person to do so.
- Work with the pupil to share the disclosure with their family when they are ready. It is school's policy to work with parents and carers wherever possible to support each child, but we recognise that each child's journey is unique. *We know that coming out as trans is not in itself a safeguarding issue and if the pupil does not want their family to know, the school will respect that.*
- Be mindful that for changes such as names and pronouns to be acknowledged in the wider community, a level of information sharing will need to happen amongst staff and pupils. This should, as much as possible, be led by the pupil asking for these changes.
- Be mindful that the pupil may only come out to a small number of school staff or their peers and as such their information must be kept private and confidential (unless confidentiality needs to be broken for safeguarding reasons).
- When working with parents and carers, settings should keep in mind that they are representing the interests of the child or young person. As far as possible, care should be taken to ensure the wishes of the individual pupil or student are considered with a view to supporting them during potential transition.
- Keep a record of support provided to gender exploring, trans and non-binary children and young people that includes decisions made in the best interests of the child (CPOMS).

The Royal College and Paediatrics and Child Health calls on Health professionals to: help parents/carers, schools and other agencies to adopt a supportive, flexible and responsive attitude to affirm a child's expressed sexuality and gender, whilst being sensitive to change over time. This will involve making appropriate adjustments.

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;

<https://www.gires.org.uk/category/education/>

Early Help Process

It is important that any support offered to a transgender pupil starts with identifying their individual needs. It must be understood that some transgender pupils may not want any special treatment. Some may choose to be known by a different name or to wear different clothes. However, most transgender pupils (and their families) will need some expert/ specialist support as they grow up and develop.

A transgender pupil would benefit from an Early Help Assessment in line with Bolton Children's Safeguarding Board procedures to identify any additional needs arising from transgender issues.

We would (with agreement and in consultation with the pupil and parent/carer) complete an Early Help Assessment to identify specific information that the pupil would like to be shared with those working with them to avoid them having to repeat themselves. When completing the assessment particular attention should be paid to the sections on emotional health and wellbeing, family and social relationships, and behaviour and an action plan put in place to address these issues and ensure the pupil has a robust support plan. The allocated Lead Professional should always be someone who knows and gets on well with the pupil.

Further guidance on the Early Help Process; <http://boltonsafeguardingpupils.org.uk/working-with-pupils-and-young-people/early-help-and-working-together/>

Terminology and language

The correct terminology and language should be used and in order to do this there may need to be some education in lessons around sexual orientation and gender so that staff and pupils have a clear understanding that sexual orientation and gender identity are two completely different things. For the matter of fairness and inclusion it is extremely important that the correct gender, name and pronouns are used correctly to address transgender pupils.

Names and pronoun change

Respecting a pupil request to change name and pronoun is crucial in supporting and validating that pupil's identity. Some transgender pupils and young people may wish to change their name to make it in line with their chosen identity. Although they may not have changed their name legally, individuals have the right to choose the name by which they are known to by staff and fellow pupils. More information on changing names on birth certificates can be found at www.deedpoll.org.uk/CanABirthCertificateBeChanged.html

School Attendance

As a school we will make reasonable adjustments to accommodate absence requests for any treatment or appointments with external sources in line with our absence policy.

It is possible that the pupil may be accessing support from outside of school so provision will be made in order for the pupil to be absent from school but confidentiality will be maintained at all times when complying with absence procedures. Sensitive care will be taken when recording the reason for absence. The pupil may need time off for a medical appointment and it should be recorded as an M code rather than being off sick.

School Photos

Transgender pupils may feel fine with having their photograph taken at school but steps must be taken to ensure that these images do not reveal any confidential information. We will always seek parental/carer permission to publish photos in line with the school policy.

Transphobia and Bullying

We have a robust anti-bullying policy in place. 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.

Deadnaming is the act of referring to a transgender or non-binary person by a name they used prior to transitioning, such as their birth name. Deadnaming may be accidental but if this is deemed an intentional attempt to deny, mock or invalidate gender identity then the behaviour and bullying policy should be followed.

Physical Education

Sports and Physical Education is a key aspect of the national curriculum and the physical and mental well-being of young people. Physical Education develops pupil's competence and confidence to take part in a range of physical activities that become a central part of their lives, both in and out of school.

A transgender pupil has the same right to Physical Education as any other pupil. With regard to transgender pupils at school, there should be reasonably few, if any, issues regarding participation within the sports of their true gender.

There may be sports where, as puberty develops, male to female (M2F) transgender pupils may have a physical advantage over other girls but this should not present a problem within a carefully and sensitively managed lesson context. The issue of physical risk within certain sports will also be managed properly within the lesson context rather than preventing a transgender pupil from participating (which would be discriminatory).

If a pupil is binding their chest, they should be monitored carefully during particularly physical activities and in hot weather. There is a chance that the binding could cause discomfort or even impair breathing. Short breaks from activity could be offered discretely.

Changing Room Facilities

The use of changing room facilities will also be carefully considered. Facilities for transgender pupils will be sensitive to their needs and also recognise the needs and sensitivities of other pupils. When competing at another school or outside venue, school staff will ensure there is appropriate, sensitive provision available. We will take a view prior to the delivery of those lessons, in discussion with parents or carers.

Provision of single sex space which exclude transgender pupils is acceptable only 'when if it is proportionate to do so and it achieves a legitimate aim', where the importance of the aim outweighs any discriminatory effects of the unfavourable treatment and there must be no alternative measures available that would meet the aim without too much difficulty and would avoid such a discriminatory effect.

Swimming lessons

The transgender pupil should be given the choice as to whether they wish to partake in swimming lessons or not. If the transgender pupil wishes to partake in swimming lessons then a risk assessment of the changing facilities should be completed. There must be careful consideration, in consultation with the pupil and in line with the health and safety policy of the leisure centre or swimming pools health and safety procedures. For example, it may be against health and safety regulations to wear a t-shirt in the swimming pool and therefore would be more appropriate for a F2M pupil to wear an all in one wetsuit or similar.

Toilet Facilities

The toilet facilities in our school have been labelled sensitively and appropriately. There is provision in school for unisex toilets. However it is acceptable for transgender pupils to use whichever toilet matches their gender identity.

School Uniform

Transgender students will be expected to follow the School Uniform Policy, which covers uniform, make-up, jewellery and hairstyles. There is a broad range of uniform available for all genders i.e. all pupils can wear trousers or a skirt and all students must wear a jumper or cardigan and a polo shirt or shirt.

Residential Visits

Careful consideration and preparation is needed where a transgender pupil is taking part in a residential visit – transgender pupils will not be excluded from the visit.

The sleeping arrangements will need to be thought about carefully before the visit takes place. Risk assessments should be carried out prior to the residential visit so that reasonable adjustments can be made to allow the pupil to participate fully.

Vaccinations

We will allow any gender specific vaccinations to be carried out at the GP's surgery in order to eliminate any embarrassment.

Confidentiality

Confidential information about pupils will not be shared with other parents. The following suggested suitable response for staff to offer should they be asked questions in relation to trans issues:

"We value all our pupils and care for them, whatever their personal circumstances. Our main job is to give them a good education in a happy school environment. That is what we are focusing on, and we would ask everyone to respect the privacy of all our pupils."

School will not engage with the press over this issue without seeking the advice of the LA press officer or media relations officer. The SET advice is to use the following statement:

"We value all our pupils and care for them, whatever their personal circumstances. Our main job is to give them a good education in a happy school environment. That is what we are focusing on, and we would ask everyone to respect the privacy of all our pupils."

Trans children and staff have the right to discuss and express their gender identity openly and to decide when, with whom, and how much information to share. When contacting the parent or carer of a Trans child or young person, school personnel should use the child or young person's legal name and the pronoun corresponding to their gender assigned at birth unless the child, young person, parent, or carer has specified otherwise.

Staff must know their duties and responsibilities around data protection so that they fully understand why information is protected, and when, how and to whom certain information can be released.

Legislation

The legislation states that schools must not discriminate against a pupil because of their Trans status. There is no legal requirement for schools, as there is with disability, to make 'reasonable adjustments' for Trans pupils but schools may take a similar 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 Trans 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 pupil 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 pupil 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 pupil.