



Transgender Policy

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Gender Identity

Gender is a spectrum, which is not limited to male or female – but can span anywhere between these two binary points. A transgender person feels that their assigned sex at birth does not match up with the way they feel internally about their gender identity. A female to male (FTM, or trans male) person will have been assigned as female at birth, but will identify their gender as male; a male to female (MTF, or trans female) person will have been assigned as male at birth, but will identify their gender as female.

The word transgender is a term used to describe people who identify with the opposite gender to which they were assigned at birth; however, trans is an umbrella term which can include people who do not feel exclusively male or female (non-binary/genderqueer). Gender can be fluid, and some children and students that do not relate to their assigned gender may never fully transition into the opposite gender, but may choose to use alternative pronouns. For example, someone who is gender fluid but chooses to keep their sex as male, may prefer to be known by 'she/her/hers' pronouns. Others may prefer to be known by 'they/them/theirs'.

Gender Dysphoria is a clinical condition that can present from a very early age and can only be diagnosed by a medical expert. A person diagnosed with Gender Dysphoria may require treatment, e.g. hormone blockers to delay puberty, before being prescribed hormones of their desired gender. 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 available from specialist Gender Identity Clinics (GICs) – of which are available in many locations across the UK. 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.

Legislation

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

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 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.

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 FTM student.

School Attendance

The Oaks Academy 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.

Transphobia and Bullying

The Oaks Academy have a robust bullying prevention policy. In line with this policy, transphobic abuse, harassment and bullying (e.g. name-calling, derogatory jokes, graffiti, unacceptable or unwanted behaviour, and intrusive questions) are serious disciplinary offences and will be recorded and dealt with in the same manner as other incidents that are motivated by prejudice under the appropriate procedure. Support will be provided for the victim of such unkind behaviour and bullying. Education and intervention will be provided for the perpetrators of such behaviour.

The Curriculum

The issues connected to gender identity will be visited for all students during curriculum time during the PSHE/RSE programme. These issues will also be touched upon during other subjects. Full details can be found by clicking on the following links:

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 students' 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 young transgender person has the same right to Physical Education as other young people.

With regard to young transgender people at school or college, there should be reasonably few, if any, issues regarding participation within the sports of their gender identity. There may be sports where, as puberty develops, MTF transgender participants 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 should also be managed properly within the lesson context rather than preventing young transgender people from participating (which would be discriminatory).

It may be that due to the nature of contact and physicality of sports such as rugby, the school would consider whether a transgender person participating in full contact lessons is appropriate towards the latter stages of puberty. This is something that The Oaks Academy will take a view on prior to the delivery of those lessons, in discussion with parents or carers.

The use of changing room facilities will also be carefully considered. Facilities for transgender participants will be sensitive to their needs and also recognise the needs and sensitivities of other students. When competing at another school or outside venue, school staff must ensure there is appropriate and sensitive provision available.

Work Experience

As already stated, the Equality Act 2010 encompasses every environment that pupils will be working in, therefore all placements should be aware of their duties and responsibilities. Where The Oaks Academy is considering allowing a transgender young person to attend a work experience placement the school will complete a suitable assessment on the potential placement to establish if there is any risk to the young transgender person, taking account of the young transgender person's right to privacy – as a general principle, personal information on the young person must not be shared.

The Oaks Academy will be sensitive to this in their planning before any young transgender person is placed in any business or organisation. Careful discussion about the placement with the student and parents or carers, will occur to find the most suitable way forward to ensure the placement is successful.

Changing/Toilet Facilities

There is provision in The Oaks Academy for gender neutral toilets. Transgender students will be able to use these facilities which have been labelled sensitively and appropriately.

School Uniform

Transgender students will be expected to follow the School Uniform Policy, which covers uniform, make-up and jewellery.

There is a generally broad range of uniform available for all children (i.e. girls and boys can wear trousers and skirts, and all students must wear a blazer, shirt and tie).

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 other documentation as appropriate such as letters home, report cycles, bus pass information etc. This must be done in partnership with the child, their family and the school. 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 The Oaks Academy and parents or carers to ensure the best way forward.

Schools and colleges are encouraged to ensure a strategy is agreed with the student and their parents or carers, then agreed with the various Examination Boards prior to starting GCSE courses as some examinations may be sat in year 10 and the length of time the process re-registering may take. Schools will also need to be aware that the DfE analysis of school performance may still present the student in the gender registered by their UPN.

It is possible for any documentation to be changed to reflect the chosen name of the young person. Changing the gender recorded on a birth certificate is not possible until a Gender Recognition Certificate has been issued. In order to change a name on other official documents such as a passport, it may be necessary for evidence of change of name to be produced. There are two ways in which this can be done: by deed poll and by statutory declaration. The Citizens Advice Bureau and other transgender support organisations will have more information on this subject. A person under 16 years of age cannot change their name legally without the consent of a parent.

Vaccinations

The Oaks Academy will allow any gender specific vaccinations to be carried out at the GP's surgery in order to eliminate any anxiety issues.

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.

The Oaks Academy will give consideration well in advance of any additional needs which may include having a parent or carer (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. 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.

With regards to a visit abroad, anyone can be searched at borders and other places. Different countries will have policies and procedures they will follow. The Oaks Academy will contact the relevant border control or agency in advance to ensure that any policy or risk assessment completed by the school is accurate for that visit.

There are countries that are not as legally and culturally open as the UK. In fact, some have laws that make it illegal to be part of the transgender community. Some countries even make it an offence not to report to the authorities that someone is part of the transgender community. The Oaks Academy will consider and investigate the laws regarding transgender communities in any country considered for a school visit.

Glossary of Terms

As awareness of Gender Identity in the wider community grows, so does our need to familiarize ourselves with appropriate terminology and more importantly, with terminology that will not be accepted within The Oaks Academy community. The link to the Stonewall website is regularly updated <https://www.stonewall.org.uk/help-advice/faqs-and-glossary/glossary-terms>