

PERSONNEL COMMITTEE – 24TH MARCH 2020

Report of the Head of Strategic Support

Part A

ITEM 8 TRANS EQUALITY POLICY

Purpose of Report

Personnel Committee to consider and agree the proposed Trans Equality Policy.

Recommendation

That the proposed Trans Equality Policy be agreed by Personnel Committee.

Reason

The purpose of the policy is to provide managers and trans employees with practical information on support in the workplace.

Policy Justification and Previous Decisions

The proposed Trans Equality Policy outlines the council's commitment to supporting trans employees. The Council is committed to equality of opportunity for trans people throughout recruitment and employment, including supporting trans employees through any transitioning process.

Implementation Timetable including Future Decisions

It is recommended that the Trans Equality Policy be published on the Council's intranet, following agreement at the Personnel Committee meeting.

Financial Implications

There are no immediate financial implications arising from this decision.

Risk Management

There are no specific risks associated with this decision.

Background Papers: none

Annexes: Annex A - Trans Equality Policy
 Annex B – Trans Equality Policy, Trans Equality Impact
 Assessment (EIA)

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Part B

Background

1. The Council aims to provide a supportive environment for trans employees and to create a culture and environment where employees feel comfortable at all times.
2. This includes outlining the Council's commitment to trans employees, offering guidance for those transitioning at work, providing clear information on discrimination and abuse, defining the legal protection afforded for trans people and defining obligations in relation to recruitment. Additionally, a glossary of terms related to trans employees has been outlined.
3. The policy also introduces an action plan and checklist which has been designed to support employees involved in managing the transitioning process within the workplace. The intention of this is to aid discussion and ensure best practice is adhered to throughout the process.
4. As well as supporting staff the policy outlines how the council will demonstrate its commitment to trans equalities across different processes and activities. As part of this, the policy will highlight the Council's commitment that discrimination, victimisation or harassment on the basis of a person's gender identity, gender expression or trans status will not be tolerated.
5. The Council is committed to promoting equality, diversity and good relations in everything it does. The trans equality policy was circulated to the Equalities Group for comments. The feedback received was favourable and demonstrated support for the proposed policy.
6. SLT agreed the Trans Equality Policy at its meeting on the 30th October 2019.
7. JMTUM considered the policy for the meeting held on 23rd January 2020. The Trade Unions provided some positive suggestions around wording and, where agreed, these have been incorporated into the policy.



Trans Equality Policy

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Commitment to trans equality

Charnwood Borough Council is committed to promoting equality, diversity and good relations in everything it does - as a community leader, as a provider and commissioner of services, and as an employer.

The Council is committed to equality of opportunity for trans people throughout recruitment and employment, including supporting trans 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 trans employees with practical information on workplace support.

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

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Definitions

The term “Trans” or “transgender” refers to all people who believe that the gender they were assigned at birth is wrong and who want to live in the gender with which they identify.

The term “Trans” or “transgender” can cover:

- People who are intending to undergo, are undergoing, or have undergone gender reassignment at any stage;
- People who identify as having a gender identity different from the sex they were assigned at birth and are planning or have had medical or surgical procedures such as hormones or surgery;
- People who identify as having a gender different from the sex they were assigned at birth but who are not planning any medical or surgical procedures; and/or,

It is important to note that these are not the only descriptions.

- The term “Trans” may also refer to people who are “non-binary”, that is, people who do not identify as either gender or who may dress differently to their gender assigned at birth and who may or not have had medical or surgical procedures.

‘Transitioning’ is the process undertaken by a trans person to change their gender presentation (the way they look and feel) to reflect their gender identify.

This may involve changing their appearance, using a different name and pronoun (eg she, he or they) and changing official documentation. It may involve various types of medical or surgical treatment although this is not the case for all trans people.

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

A glossary of common terms is available at [Appendix A](#).

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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 may be apprehensive about the response they receive. Therefore, it is important for managers to be supportive.

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

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.

Uniforms and dress codes

If a uniform 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.

Changing facilities, toilets and other single gender facilities

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

Updating records

Electronic and paper records will be updated where possible and in a timely manner, to coincide with the date on which the workplace transition begins. Care will be taken to ensure that records do not link back to the former name – for example, this may entail creating a whole 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. A new ID card with the correct name and a new photograph will be issued as soon as required.

Where it is not possible to update a record – for instance, pre-employment checks undertaken when the employee joined the Council – it will be stored in a secure place and access will be restricted to authorised individuals.

Customer facing roles

There is no reason why an employee who is transitioning should not continue in a customer facing role, however some people may wish to request to be redeployed either on a temporary or permanent basis. In these circumstances, managers should seek advice from Human Resources.

Attendance at appointments and time needed for treatment and surgery

Time off to attend transition-related appointments and treatment will be granted in line with the provisions of the Council's [Leave Arrangements Policy](#). Employees may wish to consider a temporary change to their working arrangements during this process and managers will accommodate such requests where possible.

Action plan or checklist

The trans employee and their manager might find it helpful to put in place an action 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 [Appendix B](#) for an example, which can be modified to suit the individual's needs.

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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, third party harassment and victimisation are covered by the Equality Act 2010. Managers are responsible for taking timely action where misconduct occurs on the grounds of an employee's gender identity, in line with the Council's [Behaviour in the Workplace Policy](#).

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Legal protection for trans people

Gender Recognition Act 2004

The UK Gender Recognition Act (GRA) enables people aged over eighteen to gain full legal recognition for the gender in which they live. Applications are considered by the Gender Recognition Panel. Once a person receives a Gender Recognition Certificate (GRC), they are legally of that gender for every purpose and have all the rights and responsibilities associated with that gender.

Employment rights do not depend on whether a person has a Gender Recognition Certificate. Employers should not ask for a person's GRC and it should never be a pre-condition for transitioning at work. To make an application for a GRC, a person needs to show they have been living and working in that gender for at least two years – so being asked to show a GRC as a condition of changing employment details is like being asked to show a full driving licence before you can apply for a provisional one.

The Gender Recognition Act gives anyone applying for or holding a Gender Recognition Certificate 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.

Equality Act 2010

The Equality Act 2010 (England, Scotland and Wales) protects against discrimination because of gender reassignment in employment and service delivery. It bans direct and indirect discrimination and victimisation. The Act makes clear that it is not necessary for people to have any medical diagnosis or treatment to gain this protection; it is a personal process of moving away from the sex they were assigned at birth to their true gender identity.

People discriminated against because they are wrongly perceived to be trans, or who are discriminated against because of their association with trans people or issues, are also protected.

Genuine Occupational Requirements

In the vast majority of cases, the gender of a worker is of no relevance to their ability to do a particular job. However, the Equality Act 2010 does allow for an exception where being of a particular sex is an 'occupational requirement' of that post. If this is the case for an employee transitioning at work, advice should be sought from Human Resources.

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Recruitment

People who have already transitioned have no obligation to disclose their gender history. Job applicants and interviewees will not be asked their gender identity during the recruitment process as it is not a relevant criterion in selection. Neither is there any obligation for a transgender 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 in relation to this.

References

Where a reference request is received for an existing employee who 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, we will make the request using the prospective employee's correct name and gender since transitioning. We will not mention previous names or gender

identity, unless specifically asked to do so (in writing) by the Trans employee.

Disclosure & Barring Service (DBS) checks

Where an appointment requires DBS checks, managers are responsible for initiating and completing these in conjunction with the individual. There is a confidential application process for trans people and advice can be obtained from the DBS by email sensitive@dbs.gsi.gov.uk or helpline 0151 676 1452.

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.

Professional registration

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

Pensions and national insurance

Where pensions, national insurance contributions or other benefits are dependent on legal sex, trans people will be advised of the different implications of whether they do or do not have a Gender Recognition Certificate.

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Roles and responsibilities

Employee

- Engaging with managers and Human Resources around the logistics of transitioning in the workplace;
- Reporting any instances of harassment, victimisation or discrimination in line with the [Behaviour in the Workplace Policy](#).

Manager

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

Human Resources

- Providing advice to managers in relation to this policy;
- Maintaining confidentiality, including securing electronic and paper records.

ICT Department / Property Services

- Changing names, titles and pronouns on email and other systems;
- Issuing updated ID cards.

Trade Unions

- Supporting the employee as necessary.

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 provisions of the [Leave Arrangements Policy](#).

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Document Control:

Version Number	Agreed At	Date Agreed	Review Date
2019 – V1			

Appendix A - Glossary of Terms

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

Gender dysphoria: medical term for deep-rooted and serious discomfort or distress because of a mismatch between a person's biological sex and gender identity; overwhelming desire to live in a different gender to that assigned at birth.

Gender expression: a person's external gender-related behaviour and appearance, including clothing.

Gender fluid: having a gender identity which is not fixed and where gender expression may alternate between masculine and feminine.

Gender identity: a person's deeply felt internal and individual self definition of gender, which may or may not correspond to the sex assigned to them at birth.

Gender reassignment: the process a person undertakes when transitioning from the sex they were assigned at birth to their true gender identity. This may (or may not) involve medical and surgical procedures.

Gender Recognition Certificate: issued by the Gender Recognition Panel - signifies full legal rights in acquired gender and allows the issuing of a replacement birth certificate.

Gender variance: gender expression that does not match society's norms of female and male.

Legal sex: The sex recorded on your birth certificate. Rarely relevant at work. Currently binary in the UK. Changed by applying to Gender Recognition Panel.

Non binary person: a person whose gender identity doesn't sit comfortably with 'man' or 'woman'. They may identify as both, neither or something entirely different

Transgender or trans person: a person who believes that the gender they were assigned at birth is wrong and who want to live in the gender with which they identify. The term "Transgender" can be wide ranging and there is no definitive term to describe all people who identify as "trans".

Transsexual person: legal/medical term for someone who has physically transitioned from their gender assigned at birth to their affirmed gender identity. This usually involves surgical or medical procedures to change their appearance.

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Who needs to know?

	Who will tell them?	When?	Date completed
Senior manager			
HR			
Manager			
Team members			
Other colleagues			
Others (specify)			

Changes to records

	Who will do this?	When?	Date completed
HR records			
ID card			
ICT systems including email			
Website			
Voicemail			
Internet/intranet address entry			
Trade union membership			
Pension scheme			
Certificates/awards			
Other:			

Details of meetings

Date	Comments	Actions	Date of next meeting

■ **Step 1 – Introductory information**

Title of the policy	Trans Equality Policy
Name of lead officer and others undertaking this assessment	Sally Dobrowolska – Human Resources Advisor
Date EIA started	January 2020
Date EIA completed	January 2020

■ **Step 2 – Overview of policy/function being assessed:**

Outline: What is the purpose of this policy? (Specify aims and objectives)
<p>Charnwood Borough Council is committed to promoting equality, diversity and good relations in everything it does – as a community leader, as a provider and commissioner of services, and as an employer.</p> <p>The Council is committed to equality of opportunity for trans people throughout recruitment and employment, including supporting trans employees through any transitioning process. Discrimination, victimization or harassment on the basis of a person's gender identity, gender expression or trans status will not be tolerated.</p> <p>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 trans employees with practical information on workplace support.</p>
What specific group/s is the policy designed to affect/impact and what is the intended change or outcome for them?
<p>The policy will impact all employees of Charnwood Borough Council.</p> <p>The intended outcome of the policy is to provide all employees with practical and relevant information on support in the workplace for trans employees.</p> <p>The policy is based on a document created by Unison and has been adapted for use by Charnwood Borough Council.</p>
Which groups have been consulted as part of the creation or review of the policy?
<p>Trade Unions have been consulted as part of the creation of this policy. As part of this process, trade unions have raised some helpful suggestions on this policy which have, in the main, been incorporated into the final policy document.</p> <p>SLT, JMTUM and Personnel Committee are also part of the consultation process.</p> <p>Additionally, the policy has been reviewed at the Council's Equalities Group.</p> <p>Following agreement at Personnel Committee, the policy will be rolled out across the Council, with an article in One Charnwood to ensure all employees are aware of the policy.</p>

Step 3 – What we already know and where there are gaps

List any existing information/data do you have/monitor about different diverse groups in relation to this policy? Such as in relation to age, disability, gender reassignment, marriage and civil partnership, pregnancy & maternity, race, religion or belief, sex, sexual orientation etc.

Data/information such as:

- Consultation
- Previous Equality Impact Assessments
- Demographic information
- Anecdotal and other evidence

Detailed information on gender identify was not available for the borough of Charnwood, however, the information below highlights survey information on this subject from 2018. . Nationally, the survey demonstrated an increasing amount of individuals who are identifying as transgender and Charnwood Borough Council continues to be supportive of equality of opportunity for trans employees. The findings of that survey are outlined below:

National LGBT Survey 2018 Gov.uk

Gender Identity

Thirteen percent of the respondents were transgender (or trans). Of the total sample, 6.9% of respondents were non-binary (i.e. they identified as having a gender that was neither exclusively that of a man nor a woman), 3.5% were trans women (i.e. they had transitioned from man to woman at some point in their life) and 2.9% were trans men (i.e. they had transitioned from woman to man).

Younger trans respondents were more likely than older respondents to identify as non-binary. For example, 57% of trans respondents under 35 were non-binary compared with 36% of those aged 35 or over. Younger respondents were also more likely to be trans men (26% of trans respondents under 35 were trans men compared with 10% aged 35 or over) and less likely to be trans women (17% of trans respondents under 35 were trans women compared with 54% aged 35 or over). This age profile partly accords with the referral figures to the children and adolescent gender identity services where the majority of referrals in 2016-17 were for people assigned female at birth (1,400 of the 2,016 referrals – 69%).⁵

What does this information / data tell you about diverse group? If you do not hold or have access to any data/information on diverse groups, what do you need to begin collating / monitoring? (Please list)

The Council considers this information positively with the intention of the policy to be to encourage trans people to work for the Council by acting as a community leader and encouraging a supportive environment for all to work in.

Step 4 – Do we need to seek the views of others? If so, who?

In light of the answers you have given in Step 2, do you need to consult with specific groups to identify needs / issues? If not please explain why.

All of the consultation processes agreed for the Council have been adhered to. In addition, consultation with relevant staff members has taken place.

Step 5 – Assessing the impact

In light of any data/consultation/information and your own knowledge and awareness, please identify whether the policy has a positive or negative impact on the individuals or community groups (including what barriers these individuals or groups may face) who identify with any 'protected characteristics' and provide an explanation for your decision (please refer to the general duties on the front page).

Comments

Age	The Trans Equality Policy has no detriment on employees of the Council.
Disability (Physical, visual, hearing, learning disabilities, mental health)	The Trans Equality Policy has no detriment on employees of the Council.
Gender Reassignment (Transgender)	The Trans Equality Policy has no detriment on employees of the Council. It's intention is to provide equality of opportunity for trans people at all stages of employment.
Race	The Trans Equality Policy has no detriment on employees of the Council.
Religion or Belief (Includes no belief)	The Trans Equality Policy has no detriment on employees of the Council.
Sex (Gender)	The Trans Equality Policy has no detriment on employees of the Council.
Sexual Orientation	The Trans Equality Policy has no detriment on employees of the Council.
Other protected groups (Pregnancy & maternity, marriage & civil partnership)	The Trans Equality Policy has no detriment on employees of the Council.
Other socially excluded groups (carers, low literacy, priority neighbourhoods, health inequalities, rural isolation, asylum seeker and refugee communities etc.)	The Trans Equality Policy has no detriment on employees of the Council.

<p>Where there are potential barriers, negative impacts identified and/ or barriers or impacts are unknown, please outline how you propose to minimise all negative impact or discrimination.</p> <p>Please note:</p> <ul style="list-style-type: none"> a) If you have identified adverse impact or discrimination that is illegal, you are required to take action to remedy this immediately. b) Additionally, if you have identified adverse impact that is justifiable or legitimate, you will need to consider what actions can be taken to mitigate its effect on those groups of people. <p>As outlined above, the Trans Equality Policy has been designed to not have any negative impact or potential barrier to any employee. It complies with legislation and recommended good practice.</p> <p>The policy outlines that any level of discrimination or harassment based on gender identity, gender expression or gender history will not be tolerated.</p> <p>Summarise your findings and give an overview as to whether the policy will meet Charnwood Borough Council's responsibilities in relation to equality and diversity (please refer to the general duties on the front page).</p> <p>The implementation of the Trans Equality Policy is intended to have a positive impact on the culture of the Council.</p> <p>The policy has been developed from a Unison document and is based on legislation and best practice. Consultation on the policy has been wide and comments and input have been welcomed in helping to form the final version of the policy.</p> <p>The Trans Equality Policy is one of a range of policy that the Council has adopted to continuously meet and improve upon its responsibilities in relation to equality and diversity.</p>

■ **Step 6- Monitoring, evaluation and review**

Are there processes in place to review the findings of this Assessment and make appropriate changes? In particular, how will you monitor potential barriers and any positive/ negative impact?
Policies are periodically reviewed and where it is felt there is an earlier need to review, for example, legislative changes, case review, an earlier review will be scheduled to take place.
How will the recommendations of this assessment be built into wider planning and review processes? e.g. policy reviews, annual plans and use of performance management systems.
Reviews of the Trans Equality Policy will be incorporated into the HR Work Plan.

■ **Step 7- Action Plan**

Please include any identified concerns/actions/issues in this action plan: The issues identified should inform your Service Plan and, if appropriate, your Consultation Plan			
Reference Number	Action	Responsible Officer	Target Date
1	Ensure that communication around the implementation of the Trans Equality Policy is carried out following agreement of the policy.	Sally Dobrowolska	March 2020

■ **Step 8- Who needs to know about the outcomes of this assessment and how will they be informed?**

	Who needs to know (Please tick)	How they will be informed (we have a legal duty to publish EIA's)
Employees	*	EIA will be published.
Service users		
Partners and stakeholders		
Others		
To ensure ease of access, what other communication needs/concerns are there?		

■ **Step 9 – Conclusion (to be completed and signed by the Service Head)**

Please delete as appropriate
I agree with this assessment / action plan
If disagree, state action/s required, reasons and details of who is to carry them out with timescales:
Signed (Service Head): Adrian Ward
Date: