

Transition of a teacher in school

Legislation

Schools fall under the Public Sector Equality Duty (Equality Act 2010; EqA): they must eliminate discrimination, provide equality of opportunity, and foster good relations between minority groups and others. All gender diverse people who undertaken any part of a process, not necessarily medical, to move away from the gender expression typically associated with their birth-assigned sex, towards one that is aligned with their gender identity, should be regarded as protected under the EqA. These changes qualify the teacher to have the 'protected characteristic' of 'gender reassignment'. This includes trans, non-binary and non-gender people.

The Human Rights Act 1998 (HRA) protects dignity, privacy and rights of self-expression. The Data Protection Act 1998 also protects confidentiality with regard to information and data collection and storage. The Gender Recognition Act 2004 is not relevant at the point of transition because the application for Gender Recognition Certificate (GRC) requires the applicant to have lived according to their gender identity, for 2 years. Therefore, when a person transitions, they cannot apply for, or obtain, a GRC. It is, in any case, a document that should never be requested.

- The teacher who is undertaking transition may choose to tell colleagues and/or students. However, the dissemination of sensitive information needs to be co-ordinated with a designated senior staff member to avoid gossip and misinformation being spread around the school. Joint decisions about who will be told, when, and by whom should be agreed by the teacher and the designated staff member (see also Disclosure below). Confidentiality must be strictly observed in all communications: letters, emails, telephone conversations. 'Outing' a trans person without their permission could cause them a 'detriment' in law and breach their rights under Article 8 HRA.
- Personal religious or cultural beliefs may **not** be used to discriminate against trans members of staff. A school with a religious ethos may not dismiss a teacher on the grounds that the teacher is trans and intends to transition. Other teachers may not refuse to work with a trans colleague; children (or their parents) do not have the right to refuse to be taught by the individual who has transitioned.
- Schools must review existing policies to ensure that these do not discriminate indirectly against a trans teacher.
- All teachers, pastoral staff, governors and all other staff should have awareness training and be ready to support a trans colleague. E-learning, badged by the communities and local Government NHS, is available at: bit.ly/GIRESeLearn
- An Equality and Diversity Code of Conduct in relation to all protected characteristics should be displayed in the school, which emphasises zero tolerance for transphobic and homophobic behaviour.
- The school may have an 'equality' assembly at the start of term, and also celebrate diversity by facilitating LGBTQI groups and running supportive events, e.g. during LGB&T History Month (February)
- Resources, such as information leaflets should be visible:
 - www.gires.org.uk; www.mermaids.org.uk; www.allsortsyouth.org.uk;
www.stonewall.org.uk/supporting-trans-staff-workplace

This fact sheet was produced by GIRES and Mermaids.

The Anti-Homophobic, Biphobic and Transphobic Bullying Alliance

Memorandum of Understanding (MoU)

An agreed way forward should be recorded in a confidential (access restricted), informal document; which protects the teacher and clarifies the school's obligations. This may be signed by the teacher and a designated senior member of staff. A teacher may choose to be accompanied by a Union or HR representative, or other colleague, at meetings where their transition is discussed. The document should be regarded as flexible; it can be changed if necessary. This document and any others indicating a person's gender history or transition, must be regarded as 'protected information', therefore only visible to those who 'need to know', and with the agreement of the teacher.

Important changes and actions may be scheduled

Date of transition: (change of gender role) should be agreed between the teacher who is planning to transition and the senior staff member responsible for supporting the teacher's transition. Transition during a vacation is preferable but the school should accommodate the teacher if that is not possible.

Name and gender-marker (pronoun and title) change: Records should be updated immediately by the school; this does *not* necessitate evidential documentation; however, it may facilitate the correction of documents if one of the following is provided: a Driving License, Passport, doctor's letter, Deed Poll or Statutory Declaration. Hard copy or IT documents showing old name/pronouns must be secured and/or password protected. It is essential that 'protected information' cannot be accessed inadvertently. The school may facilitate the reissuing of updated awards or other academic certificates by advocating with the relevant academic institution.

Disclosures: It is for the trans teacher to decide who needs to be told and by whom. Immediate colleagues and the pupils taught by the individual will inevitably need to be told; probably their parents/guardians also will need to be told by letter, with agreed text, and appropriate information leaflets enclosed. Available from www.gires.org.uk. It is important that the tone of the letter indicates that the school is fully supportive, and that the letter is up-beat so that parents do not use it as an excuse to raise objections.

An appointed member of HR will have to be told because the teacher's transition will have an impact on insurance, and possibly pension, policies. However, information about the teacher's transition should be no more than is strictly necessary, unless with their consent, or at their request.

Support: a mentor may be assigned to, or chosen by, the teacher to provide support within the school. If support is needed outside the school; a directory of support groups can be found at www.TranzWiki.net

Time out: Clinic and other appointments associated with transition that fall during term time should be accommodated where it can't be avoided. This must not impact negatively on the teacher's employment status. Support for the school's medical team can, if necessary, be accessed at the Royal College of GPs' website: www.elearning.rcgp.org.uk/gendervariance

Toilet and changing facilities: Trans people are entitled to use the facilities in line with their gender identity from the moment of transition. Those who are uncomfortable with sharing these facilities, may choose alternative facilities. Schools must ensure that adequate unisex or accessible facilities are also available for any user.

Press intrusion: Office staff who respond to telephone calls should be alerted so that they do not breach the privacy of the teacher undertaking transition, if anyone, including the Press, seek personal information.

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