Gender Identity and Gender Expression Policy

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# Gender Identity and Gender Expression Policy

# 1 Introduction

(Name of) School aims to provide an inclusive environment which promotes equality, values diversity and is committed to maintaining an environment of dignity and respect where all students can develop to their full potential.

This policy outlines the school’s formal commitment to recognise and support an individual’s gender identity and gender expression so that all members of the school community experience a positive tolerant environment where every member is treated with dignity and respect.

This document constitutes the current Gender Expression and Gender Identity Policy of (name of) School in conformity with the requirements of the: Employment Equality Act, 1998 to 2011; the Equal Status Acts, 2000 to 2012, and the Gender Recognition Act, 2015 which provides legal recognition through self-determination for those over 18 and for individuals aged 16/17 with parental consent.

# 1.1 Definitions

* Trans\*: An umbrella term which can be used without offence for people whose gender identity and/or gender expression differs from that which is usually associated with the sex assigned to them at birth. This term can include diverse identifications such as: transgender, androgynous, agender, gender neutral, non-binary, genderqueer, gender variant or differently gendered.
* Intersex: An umbrella term used for a variety of conditions in which a person is born with reproductive or sexual anatomy that does not fit the typical definitions of female or male. Although intersex individuals do not always identify as transgender or do not consider themselves covered by the Trans\* umbrella; where this policy uses the term trans\* it equally applies to intersex individuals.
* Sex: The designation of a person at birth as male or female based on their anatomy (genitalia and reproductive organs) or biology (chromosomes and hormones).
* Gender Identity: A person’s deeply felt identification as male, female, or some other gender. This may or may not correspond to the sex they were assigned at birth.
* Gender Expression: The external manifestations of a person’s gender identity. Gender can be expressed through mannerisms, grooming, physical characteristics, social interactions and speech patterns, etc.

# 1.2 Context and Legislation

This policy is developed in the context of the Employment Equality Acts 1998-2011, Equal Status Acts 2000-2012 and Gender Recognition Act 2015-2018 which prohibit direct and indirect discrimination, sexual harassment, harassment and victimisation in relation to nine equality grounds including gender. The gender ground protects trans\* persons from sex discrimination, that is, discrimination arising from gender identity and gender expression.

The Employment Equality Acts prohibit discrimination in employment – including recruitment, promotion, pay and other terms and conditions of employment. The Equal Status Acts prohibit discrimination in access to and provision of services, accommodation and educational establishments. The Gender Recognition Act 2015 which legally recognises & protects the rights and supports the wellbeing of trans’ people.

# 1.3 Scope

This policy applies to:

* All student applicants and students.
* All service users, visitors, customers and clients of (name of school).

Note: hereafter ‘service user’ will be used to denote customers, members of the public, visitors and clients.

All members of the school community share the right to protection under this policy and carry a responsibility for ensuring the policy is adhered to.

In particular, this policy includes conduct that takes place on site, at functions and activities where one is representing the school. This policy also pertains to usage of electronic technology and electronic communication that occurs in the above locations and situations.

# 2 Statement of Commitment

(Name of) school will treat all trans\* students and service users with dignity and respect and seek to provide a work and learning environment free from discrimination, harassment or victimisation. (name of) school:

* Is committed to non-discrimination (direct or indirect) on the grounds of gender identity and gender expression.
* Supports an inclusive environment of dignity and respect where everyone can develop their full potential. (Name of) School does not tolerate harassment or bullying of students or other members of the school community on the basis of gender identity and expression.
* Respects the privacy of all trans\* individuals and will not reveal information related to their trans\* status without their prior agreement.
* Seeks to provide a supportive environment for students.
* Supports an environment in which trans\* individuals who choose to be open about their gender identity feel respected and safe.
* Supports and is committed to providing reasonable accommodations for students trans\* needs.
* Encourages and facilitates staff training and awareness to ensure a supportive environment.

# 2.1 Roles, Rights and Responsibilities

As a Trans\* individual you have a right to:

* Openly be who you are. This means expressing your gender identity without fear of consequences (with consent of your parents if under 18)
* Be treated with fairness, dignity and respect.
* Privacy and appropriate confidentiality of records. Disclosure of information will only happen with your and/or your parent/s, guardian/s consent.
* Equal access to education, services, activities and facilities in school.

### If you wish to disclose or avail of school supports as a Trans\* individual, you have a responsibility to:

* Inform the school of any support needed as soon as possible to allow appropriate arrangements in a timely fashion.

### (Name of) school has a right to:

* Request you to provide information to establish the nature of reasonable arrangements to be put in place.

### (Name of) school has a responsibility to;

* Oversee the implementation of the school policy in relation to gender identity and gender expression in a fair and transparent manner.
* Take all reasonable steps to provide appropriate support and arrangements for trans\* individuals.
* To develop best practice and policy in line with legislation.
* To raise awareness and to provide advice and training on gender identity and expression to staff and students within the school.

# 3 Non-Discrimination

Under the Employment Equality Acts 1998-2011 and Equal Status Acts 2000-2012 discrimination, harassment, and victimisation, on the basis of gender, which encompasses gender expression and gender identity, is unlawful. Discrimination is defined as the treatment of a person in a less favourable way than another person is, has been, or would be treated in a comparable situation on any of the nine grounds which exists, existed, may exist in the future, or is imputed to the person concerned.

Some indicative examples of unlawful discrimination include:

* Refusing education, services or support on the basis of gender expression or gender identity.
* Verbal or physical threats, harassment, or malicious gossip.
* Refusing to address a person by their preferred gender pronoun or new name.
* Revealing the trans\* status of a person to others without their explicit consent, excluding exceptional circumstances detailed in the Confidentiality section.

# 4 Dignity and Respect

(Name of) school promotes and is committed to supporting an environment which is free from bullying, sexual harassment and other forms of harassment.

(Name of) school will not tolerate harassment or bullying of students or other members of the school community.

# 5 Confidentiality and Privacy

All persons have a right to privacy, and this includes the right to keep one’s trans\* status private. Each individual has the right to privacy. All information disclosed relating to a person’s gender identity and expression will be treated as confidential. Confidential information will only be disclosed with the person’s prior consent.

The principle that no confidential information will be passed on to the third parties without the express permission of the individual concerned applies unless there is a serious concern that there may be a threat to the safety or life of the individual or is otherwise required by operation of law.

Information held by the school complies with the requirements of the Data Protection Act and the Freedom of Information Act relevant to school policies. In order to comply with the above principles, staff must take all necessary precautions to ensure the safe-keeping and accuracy of all records containing personal information.

Where information is recorded or shared, the terminology used must be respectful. This guide may be used as a guide for what is acceptable language.

# 6 Transitioning

(Name of) school is aware that a transition may not be applicable, necessary or desirable for all trans\* individuals for a variety of reasons.

A social transition is a period of time in which a student may change aspects of their gender expression to align with their gender identity such as a name and pronoun change, change of clothes/uniform, change in use of facilities.

If a student wishes to begin a social transition they should contact the following to arrange a meeting to discuss in confidence how they wish to deal with their transition and to agree a process with which they are comfortable:

### Students:

* (Name of teacher/s who can be approached to discuss a transition)

A very important element of this meeting will be to determine who should be told what and when and how this should occur.

It can be helpful to draw up a confidential transition plan for the period of transition and thereafter.

The implementation of the plan should be reviewed regularly and reassessed at each significant part of the process. The plan should include the following issues, where applicable:

* The expected point of change of name, personal details and/or gender
* Who will need to be informed initially, and the level of information to be provided, in order to offer support and arrangement where and when necessary
* Whether the individual wishes to inform fellow students themselves, or would prefer this to be done for them
* What amendments will be required to records and systems
* Whether training or briefing of members of staff, fellow students or service users will be necessary, at what point and by whom this will be carried out

Appendix 1 provides a useful flow chart and checklist that covers most of the issues that need to be considered when an individual is going through the transitioning process. It is important to understand that one of the most significant moments will be when the individual wishes to start presenting in their chosen gender publicly. It is crucial that this is managed and communicated well to those who have a working or study relationship with the individual. It is also important to note that different individuals will have different needs, and that there is no set, standard model of transition.

# 7 Practical Considerations

Some practical considerations will arise when a person is transitioning, for example, changing and bathroom facilities, and accommodations for overnight trips. See Appendix 2 for guidance on practical considerations and how to promote trans\* equality within school.

Please note that when a person transitions to live in the gender in which they identify, they will normally use the facilities appropriate for their identified gender or may require a gender neutral / universal access option.

# 7.1 Training and Awareness Raising in school

(Name of school) will provide education for staff and students in order to ensure the implementation of this policy. Awareness will be incorporated in relevant training programmes for staff and students including equality and diversity training, and staff and student support training.

# 7.2 Forms and Records

Please note that everyone has the right to be addressed by their preferred name and pronoun. A legal name or gender change is not required, and the individual need not change their official records.

# 8 Complaints Procedures

Bullying or harassment and complaints alleging discrimination based on a person’s actual or perceived gender identity or expression will be taken seriously and will be dealt with under the school Dignity and Respect Policy.

To identify an individual as trans\* to a third party without the individual’s permission (i.e. to ‘out’ someone) is a form of harassment. The aim of the aforementioned policy is to promote a working and learning environment in which harassment and bullying are known to be unacceptable and where individuals have the confidence to deal with harassment and bullying without fear of victimization.

For complaints of discrimination under the Equal Status Acts there is a requirement for a written notification to the person against whom the complaint is being made within 2 months of the most recent occurrence of the incident; a six month time-limit for raising a

complaint with the Equality Tribunal applies.

Normal staff and student complaint procedures apply.

# 9 Policy Review Procedures

This policy shall complement existing Equality policies adopted by the school. It shall be subject to continuous assessment and evaluation and shall be reviewed at least once every three years.

The implementation of this policy entails taking into account the impact of other policies on trans\* students and services users.

# 10 Appendices

### Appendix 1 - Flowcharts and checklists for transition

It is important to note that each individual will have a different approach to their transition. Some may want to change their entire record, yet others may not wish to do so and (name of school) will respect and support individual’s choices and wishes. If someone does not wish to change their record, some of the actions below may not apply. This flowchart is only a guideline and all cases will be treated individually.

The individual approaches a representative from (name of school) in confidence and goes through the transition checklist using it to develop a transition action plan. (see below). Where possible the student will meet with the principal and their parents to create this plan.

Actions are taken according to the agreed action plan.

Ongoing support for the Tran\*s individual will be provided as necessary.

* Update student records,
* Inform other staff and students (in agreement with the student)
* Provide supports and reasonable arrangements (if necessary)
* Identify training needs among staff and request training if necessary

The individual decides to transition

### Checklist to consider when discussing a students’ transition

**Time scale**

|  |  |
| --- | --- |
| What will be the timeline of transition? |  |
| What will be the date for* Name/pronoun changes,
* Use of facilities (toilets, changing rooms),
* Change of records?
* Change of uniform
 |  |
| Which identifications/ records need to be changed? |  |

**Supports during Transition:**

|  |  |
| --- | --- |
| Who will need to be informed, and what level of information should be provided, in order to offer support and arrangements during the transition process? (Informing staff first, then possibly students if deemed necessary) |  |
| If the individual experiences effects from any medication what accommodations may be needed? |  |
| Continual support, checking in with individuals in order to make sure their needs are being met and they are not experiencing any bullying or harrassment |  |

**Training and Awareness**

|  |  |
| --- | --- |
| Will there be a need to arrange training? |  |
| Who will deliver this training? |  |
| What will the training cover? |  |

# Appendix 2 – Promoting trans\* equality within schools: Overnight Accommodation and other Practical Considerations

**Accommodation for overnight trips**

In providing accommodation for students, any special issues which may be raised in relation to trans\* students will be treated sympathetically by the school.

Due to the age of students and in line with Child Protection policies, schools do not provide mixed gender accommodation.

The principal will liaise with the individual and their parents/guardians ensuring the best possible arrangement for the individual. This will most likely involve a number of factors such as:

* Has the individual friends who wish to share accommodation?
* Which accommodation is most appropriate for each given situation? (Ensuites, numbers in the accommodation, age profile etc)
* Who needs to be informed, if any (with the permission of the individual)
* A teacher/adult should be placed in a room close by for safeguarding of the individual

**Facilities**

When a person transitions they will normally use the facilities (e.g. bathroom and changing rooms) appropriate for their identified gender.

**Toilets:**

When a person who is transitioning begins to live in the gender in which they identify, they will normally start to use the toilets appropriate for their identified gender. This is usually a process and may not happen immediately. It is important to consult the individual to decide how best to approach this.

* The individual may prefer to use a universal access toilet until they feel comfortable enough to use the toilet of their identified gender.
* The safeguarding of the individual is paramount and must be taken into account when thinking about which toilet is most appropriate.

\*Requiring a person to use disabled toilet facilities is not acceptable unless the person requires these facilities due to a disability.

**Changing rooms:**

The use of changing rooms should be considered carefully and in consultation with the individual and their parents/guardians. It may be necessary to explain the situation to other students but only after consultation with the person who is transitioning.

It is important to plan for:

* the provision of private cubicles within existing changing facilities, the provision of non-gender specific facilities (e.g. non-gendered toilet facilities)

where possible.

# Appendix 3 – Guidance to Staff and Students on Supporting trans\* Individuals

1

* Think of the person as being the gender that they want you to think of them as.
* Use the name and pronoun that the person asks you to. If you aren’t sure what the right pronoun is, ask. If you make a mistake with the pronouns, correct yourself and move on.
* Respect people’s privacy. Do not ask what their ‘real’ or ‘birth’ name is. Trans people are often sensitive about revealing information about their past, especially if they think it might affect how they are perceived in the present.
* Similarly, respect their privacy. Do not tell others about a person’s trans\* status. If documents have to be kept that have the person’s old name and gender on them, keep them confidential.
* Respect people’s boundaries. If you feel it is appropriate to ask a personal question, first ask if it is ok to do so. Personal questions include anything to do with one’s sex life, anatomy (not just genitalia) and relationship status – past, present or future. Questions such as ‘Are you on hormones?’ can be considered personal.

2

* Listen to the person, and ask how they want to be treated and referred to.

*(Extract from the Equality Challenge Unit: Trans Staff and Students in Higher Education: 2010).*