



## Gender Identity Protocol

### 1. Introduction

We believe that all staff, workers, councillors and customers, regardless of their gender identity have the right to equal treatment and protection from discrimination.

We will also aim to provide a positive working environment free from discrimination, harassment or victimisation.

#### ***Who are Transgender people?***

A number of people find the gender they are assigned at birth does not match their internal sense of being male or female. There are many terms to describe people who change their gender identity. For the purposes of this protocol we will use the term transgender as an adjective.

### 2. Guidance and legislation

This protocol is based on guidance issued by the Equality and Human Rights Commission (EHRC) and complies with current NI legislation including:

- **Sex Discrimination (Northern Ireland) Order 1976**, which prohibits discrimination and harassment on the grounds of sex, pregnancy and maternity, gender reassignment, and marital or civil partnership status.
- **The Sex Discrimination (Gender reassignment) Regulations (N.I.) 1999**, which amended the Sex Discrimination Act 1975 to make it unlawful to discriminate in employment and vocational training on the grounds that a person intends to undergo gender reassignment, is undergoing gender reassignment or has undergone gender reassignment.
- **The Sex Discrimination (Amendment of Legislation) Regulations 2008**, which came into effect on 6 April 2008. It is now unlawful for providers of goods, facilities and services to discriminate or harass people on the grounds of gender reassignment.

- **The Criminal Justice (No. 2) (Northern Ireland) Order 2004.** The PSNI defines a transphobic incident to be any incident which is perceived to be transphobic by the victim or any other person.
- **The Gender Recognition Act 2004** allows transsexual people to register their gender and be issued with a new birth certificate. Transsexual people can apply for a Gender Recognition Certificate (GRC) to do this.
- **Section 75 of the Northern Ireland Act 1998** places public authorities, including the council, in Northern Ireland under a duty to have due regard to the need to promote equality of opportunity between:
  - persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation
  - men and women generally
  - persons with a disability and persons without
  - persons with dependants and persons without
  - Public Authorities are also required to have regard to the desirability of promoting good relations between persons of different religious belief, political opinion and racial group

In the rest of the UK, the characteristics pregnancy and maternity and gender reassignment are explicitly listed in the legislation. While these are not listed explicitly in the legislation in Northern Ireland, they are, in many respects, covered by other terms (for example, equality on grounds of pregnancy and maternity and gender reassignment are seen as being covered by the sex equality provisions).

- Under the **Data Protection Act 1988**, transsexual identity and gender reassignment would constitute 'sensitive data' for the purposes of the legislation and must be processed as such.

### 3. Meeting our legal duties

We will make sure that there is no discrimination on the grounds of gender identity in relation to staff, councillors, customers or members of the public.

We will try to eliminate all discrimination on grounds of gender identity and also to create a working environment based on good relations between all employees, including transgender people, with a shared commitment to respecting diversity and difference. In addition, we will make sure that our working environment allows staff to work to their full potential, provide a place where there is a culture of respect for human rights, and where staff feel valued.

## 4. Definitions

Transgender, often abbreviated to “Trans”, may be used loosely to describe any gender expression or experience that falls outside the typical man or woman gender identity.

“Trans” is an umbrella term for those who do not conform to normative ideas and categories of sex and/or gender and can include Transsexual, Transgender, Transvestite/cross dresser, asexual, pansexual, gender-queer, androgyne, non-binary, bi-gender, pan-gender or tri-gender individuals.

Further information is set out in the glossary.

## 5. Ensuring equality for transgender people.

We will not discriminate on the grounds of gender identity in any way. We will make sure that all the rights of a transgender person are met. We will also ensure that transgender members of staff have equal access to all benefits and opportunities.

It is the responsibility of all our officers to challenge transphobic behaviour or language.

### 5.1 Customer service for transgender people

Our officers should treat transgender people as they want to be treated and take a lead from the individual.

Officers should refer to transgender people by the pronoun (he or she) they prefer.

We recognise that stereotyped gender roles can be harmful to transgender people who may feel constrained to behave in ways, or work in areas that are traditionally considered appropriate for their registered sex at birth (or appropriate for their role after gender transition).

### 5.2 Harassment

In law, harassment is defined as unwanted conduct which has the purpose or effect of:

- a) violating dignity or
- b) creating an intimidating, hostile, degrading, humiliating or offensive environment.

Our officers will ensure that transgender people are not subjected to abuse or harassment. In addition to derogatory comments or name calling, Trans abuse or harassment includes refusing to address a transgender person by their preferred name, refusing to use their correct gender pronouns and intrusive personal questions.

### **5.3 Training**

We will raise staff awareness on the trans protocol through training and information updates.

### **5.4 Gender history**

There is no legal requirement for a trans person to disclose their gender history. Officers should ensure that, if they are aware of an individual's gender transition, they must not refer to the individual's previous gender in any documentation.

### **5.5 Council records**

A doctor's letter saying that a person is intending to permanently change their gender, together with proof of their name change (such as a statutory declaration or deed poll) will allow the council to change the person's names in systems and records.

Pension entitlements will correlate with the legally recognised gender of the person. Pension entitlement will change when a trans person is legally recognised as their gender and has obtained a Gender Recognition Certificate (GRC), although the GRC is a personal document, is not proof of trans status and should not be requested as proof of gender.

We will update our records to include the chosen name and sex identified by individuals at the appropriate time.

### **5.6 Marriage and Civil Partnerships**

Once a transsexual person has registered their gender they can legally marry someone of the opposite gender. A transsexual person who is gay, lesbian or bisexual can have a civil partnership.

A transsexual person who is already married cannot register their gender and stay married because it would mean the couple were in a same sex marriage, which is not

allowed within legislation. They would be required to divorce before the transsexual person could register their gender. The couple could then have a civil partnership.

## **5.7 Access NI Checks**

Access NI has a process in place for people who have changed gender. The disclosure form should be completed and a separate letter should be written to a nominated person at Access NI, known as a sensitive casework manager, notifying them of their previous names.

## **5.8 Support through Transition**

When a person begins gender transition they need to change documentation and start living the 'real life experience' of their acquired gender.

We will allow flexibility to accommodate the needs of any individual transitioning. The person transitioning should, however, appreciate that they cannot expect the council to make adjustments on their behalf if we do not know about their status.

If a member of staff informs management of his or her intention to transition, the first step for the organisation will be to confirm support and agree an action plan. This will be undertaken sensitively and should include:

- The expected timescale of any medical or surgical procedures
- The amount of time off that may be required for treatment and/or possible side effects from any medication
- The expected point in time when name, personal details and gender may change
- The start date of living full time in the new role
- Whether the employee wishes to inform colleagues her or himself, or would prefer others to do this
- What support or training others may need to understand the issue
- Use of single sex facilities
- How the information will be managed and by whom

## **5.9 Provision of facilities (showers, changing rooms and toilets)**

Regarding Belfast City Council customers and employees, it is up to the individual when he or she feels comfortable using facilities appropriate to their new gender. Although some people may initially use accessible toilets for example, it is not appropriate to expect the individual to use these indefinitely.

If an individual changes gender they will be expected to use the facilities applicable to their new gender, as soon as the transitioning begins.

Individuals who cross dress will be expected to use the facilities of their birth gender.

We will ensure that our staff are informed of the issues around transgender.

If a transgender person enquires about the facilities and services we have to offer, we are committed to responding in the following way:

- We will provide facilities which offer privacy and ensure people feel safe
- We will be courteous at all times when providing a service and making facilities available
- Our Equality Scheme under Section 75 of the Northern Ireland Act 1998 makes a commitment that we will not discriminate against trans people in the provision of council services whether those services are delivered by the council or through a third party organisation
- Staff and managers will be trained to be aware of and sensitive to trans gender issues
- If the trans person states that they are legally recognised in their acquired gender (under the Gender Recognition Act 2004), we will accept that they are entitled to use the appropriate gender facilities unless it is impractical to do so

When we provide sports and leisure activities and there are no cubicles affording privacy, staff may discuss with a trans person where they might be most comfortable changing.

## **6. Policy procedure**

### **6.1 Consultation and engagement**

This policy was consulted on with relevant staff.

### **6.2 Consultation and screening**

This policy will be screened after the consultation closes.

### **6.3 Communication and training**

This policy will be circulated to all departments, when agreed, and will be accessible via notice boards or on Interlink.

A training and implementation plan will be agreed and implemented for all relevant staff.

#### **6.4 Review and revision arrangements**

This policy will be reviewed as and when required to ensure it remains effective and fit for purpose.

### **7. Complaints**

We will provide a supportive environment for those who make claims of discrimination or harassment. This includes challenging discriminatory behaviour by staff, managers or customers.

### **8. Monitoring**

We carry out equality monitoring on its staff. Our revised monitoring form will include a process to monitor transgender.

### **Further advice and guidance**

In any cases where management is unsure how to deal with a concern regarding this policy having referred to appended advice and guidance to this policy, advice should be sought in the first instance from the Section's Department Business Support Officer or HR Manager, who if required, will consult with the Council's corporate human resources section including trade unions.

## Glossary

<i>Transgender people</i>	A term for those who cross the conventional boundaries of gender. Transgender people may not identify as one gender or another but rather androgyny or living in more than one gender role.
<i>Transsexual</i>	Transsexual people identify as a member of the sex opposite to that assigned at birth and desire to live and be accepted as such. Transsexual people may undergo transition, a process of aligning ones sexual characteristics with their internal gender identity. This often, but not always, involves medical and/or surgical intervention including hormone therapy and/or sex reassignment surgery.
<i>Transgender</i>	Transgender is a term applied to individuals' behaviours and groups involving tendencies to vary from culturally accepted gender roles. Transgender is the state of one's gender identity (self-identification as man, woman, neither, or both) not matching one's assigned sex (identification by others as male, female, or intersex based on genetic/physical sex).
<i>Gender dysphoria</i>	Gender dysphoria is a condition where a person feels that they are trapped within a body of the wrong sex.
<i>Gender reassignment / Transition</i>	This refers to everything involved when someone changes the gender they were assigned with at birth. It may include surgical procedures and changing state documentation.
<i>Transvestite/cross dressing people</i>	Most people who cross dress identify with their birth gender and do not wish to alter their physical characteristics. They are not covered by equality legislation.
<i>Sexual orientation</i>	A change of gender rarely has anything to do with a person's sexual orientation. Trans people, like all people, can be lesbian, gay, bisexual, asexual or heterosexual.
<i>Gender identity</i>	Gender Identity is the gender a person identifies with. This describes an individual's own sense of themselves as masculine or feminine, rather than how others or society label them. This is



not necessarily matched to the sex they were assigned at birth. It is generally expected that males will identify as masculine and females as feminine. Most people may never question this, or consider their gender as a choice. But some people's perception of their own gender identity may not conform to the sex they were assigned at birth. For example, a male person may identify as feminine or a female as masculine, or someone may not identify as either or may identify as a mixture of both. This is their gender identity. Some people have a gender identity that is neither clearly female nor clearly male. For the purpose of the law, however, people can only be male or female.

### *Gender role*

Gender role is the way that a person lives in society and interacts with others, based on their sex and gender identity. The role may also be one an individual is supposed to fulfil based on their sex and the gender attached to that sex, which will vary according to culture and society. Every society has stereotypes about how males and females should behave and look, and these stereotypes define an individual's gender role. For example, males are supposed to have short hair, wear trousers, and be tough and independent. Females are supposed to have long hair, wear skirts or dresses and be stereotypically beautiful (definitions of which vary and change). It is through how we look and behave in stereotypically masculine or feminine ways – our gender role – that displays and signals to others whether we are male or female. Gender roles can also prescribe our careers and lifestyles. For example, women are expected to be responsible for childcare and still do the bulk of household labour in families, men are expected to be breadwinners in their family.

### *Gender recognition*

A Gender Recognition Certificate (GRC) is issued by a Gender Recognition Panel and signifies full legal rights in acquired gender and allows issuing of a replacement birth certificate. The certificate will be issued to a successful applicant if he or she is not 'married' in a civil partnership. From the date of issue, the holder's gender becomes the acquired gender for all purposes. An interim GRC will be issued to a successful applicant if he or she is married at the time of application, and would allow the applicant and her or her spouse to end their marriage easily. It has no legal significance beyond this use. When the marriage is ended, a full GRC will then be issued.