1 Policy statement

The Office of the Police and Crime Commissioner is committed to ensuring all employees are treated with fairness, dignity and respect. This is irrespective of their birth gender or the gender or genders in which they choose to live, work and present themselves.

The Office of the Police and Crime Commissioner seeks to create a culture, workplace and learning environment that is free from discrimination, harassment or victimisation.

The Dignity at Work policy and this How to Guide have been written in compliance with the Equality Act 2010, the ACAS Equalities guidance, the Inclusive Employers Recruitment and Retention of Transgender Staff guidance and Stonewall guidance.

2 Scope

All employees of the OPCC.

3. How to use this document

This document is not part of the formal policy. Instead it provides additional information to help you in the practical day to day application of the policy.

While the wording of this guide is addressed to the Manager, it sets out the guidance for all employees – the manager, a transitioning employee, their colleagues and members of HR.

Throughout the guide, a ‘requirement’ is indicated by the word ‘must’ and the word ‘should’ is used to indicate actions or processes that are considered to be best practice.

All employees must adhere to the Dignity at Work policy when using this guide.
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4. Introduction

Principles

As a manager you are vital in ensuring employees within your team are aware of the standards of behaviour expected of them. You must set a good example of appropriate behaviour in the workplace at all times.

You must ensure through your everyday management practices that you:

- do not treat someone less favourably because of their gender
- do not [directly or indirectly discriminate] against an employee because of their gender
- do not subject an employee to [harassment] or allow an employee to be subject to [harassment] because of their gender
- do not [victimise] an employee because of a complaint or allegation that they have made
- do not [discriminate] against an employee due to their gender once they have left the OPCC.

Intended outcomes

The aims of the Dignity at Work policy and this how to guide are to:

- ensure equality for all employees who are [trans, non-binary] and non-gender
- eliminate [discrimination, harassment] and [victimisation] for all employees who are [trans, non-binary] and non-gender
- foster good working relationships between employees who are [trans, non-binary] and non-gender and those employees who are not
- define the [action] that will be taken for behaviour or conduct that fall short of the OPCC’s expected standards of behaviour.

5. Supporting the employee

Your role as a manager

You may be approached by an employee who is planning to [transition], is transitioning or has transitioned. You need to be able to listen, and agree an approach that suits the needs of the employee, and the OPCC.

You should be aware that it can be an extremely difficult step for the employee to tell you that they are planning to [transition], are transitioning or have transitioned.
There is no fixed plan or approach to take to support the employee as each employee’s journey is different. The best approach is to agree a plan/strategy with the employee which can be amended/adapted accordingly throughout the process.

**What you to do as a manager?**

If you are approached by an employee who is planning to transition, is transitioning or has transitioned you need to be able to:

- listen and show support to the employee
- adopt an approach that meets the requirements of the employee
- understand the employee could have a range of different experiences or objectives that they may want to discuss
- understand each employee is unique and will have their own specific timeframe/pace in which they may be planning to transition, are transitioning or have transitioned
- discuss with the employee who needs to be informed at the different stages of the transition process at work.
- discuss whether or not the employee is planning medical interventions and whether they will need any time off for appointments and/or surgery
- agree with the employee what steps need to be taken before, during and after their transition. This can be done through developing an agreement or action plan
- agree suitable dates, times and frequency for review meetings with the employee as part of any action plan or agreement
- obtain advice from HR Operations, or the LGBT+ network as appropriate.

A template action plan is available for you to use with the employee.

**Making a plan**

You must arrange a meeting to discuss their particular circumstances and to establish how you can support the employee.

Considerations may include (this list is not exhaustive):

- if there is going to be a change of name, personal details and social gender - who needs to be informed and what records needs to be changed
- consider how and when does the employee wish to inform management, colleagues, associates about their transitioning
• consider who the employee wishes to inform about their transitioning within the OPCC
• whether there will be any difficulties with outside organisations and discuss how these difficulties may be resolved
• are any duties within their role that should not be undertaken whilst the employee is transitioning. This may need further discussion with the Occupational Health and Wellbeing team as there maybe medical reasons relating to transition which could temporarily affect an employees ability to carry out some tasks or types of work (e.g. heavy lifting)
• is any time off required for medical or surgical appointments
• any dress code requirements
• a discussion regarding toilets and changing facilities
• a discussion regarding vetting / DBS checks if the employees’ name or personal details change
• a discussion on ID badges and IT log in details if employees’ name or personal details change
• a discussion on implications for payroll, pensions and insurance
• frequency of meetings to monitor/ review any issues or concerns
• consider whether any training or guidance is needed to support colleagues
• ensure confidentiality remains throughout the process.

A template action plan is available for you to use with the employee and can be changed/ adapted throughout the process.

6. What do the key discussions involve?

**Dates and timescales**

You need to have a discussion with the employee about when the key changes will take place and how they fit with any relevant work deadlines.

These deadlines will vary depending on the employee but could include changes to name, documentation, physical changes or short term or permanent role changes including work pattern.

You will need to think about the practical issues relating to the availability of key employees to support the process, and who those employees will be.
### Records and systems

You need to identify what actions are needed to update records and systems relating to the employee and when this will happen.

This will include:
- HR /Payroll systems
- ID Badges, IT log in details
- any photographs/ biographies on the OPCC intranet and internet/ websites
- historic information on personal records (such as records relating to a previous period of maternity leave for a transgender man).

You will need to agree with the employee who and when the relevant employees will need to be informed. This may include the Integrated Business Centre (IBC), the Vetting Unit, Facilities Management, IT and Occupational Health.

### Communication with colleagues

You should discuss with the employee how they would prefer their colleagues to know about their plan to transition, or of their transitioning. This could be:
- a verbal communication at a team meeting, the trans person could be present or absent
- on a 1:1 basis, the trans person could be present or absent
- electronic communication
- letter

The employee may not be ready to tell anyone else at the early stages and if that is the case, this should be respected. However it should be regularly reviewed to decide the appropriate time and means to communicate to relevant colleagues and other individuals who may need to be informed.

This communication will need to be practical and address important issues such as how to address the trans colleague (new name, correct pronoun), how to support colleagues and how to deal with questions that may come from outside the team, without breaching confidentiality.

You should have a discussion about how to liaise with external customer/ client groups as the OPCC works in partnership with a number of different partners.

### Use of facilities (toilets and changing)

A trans person should be free to select the facilities appropriate to the gender in which they present themselves.
Absences from work
Section 16 of the Equality Act contains specific provision to protect the right of trans employees to have time off work for reasons relating to their gender reassignment.

Short-term job change
It may be appropriate to have a discussion with the employee about short term job changes. A discussion with Occupational Health (OH) is recommended. OH can assist you and the employee with any risk assessment and/ or discussion about short term job changes.

If the employee moves to a different role in the short term any flexible working pattern must be reviewed as part of the changes.

Uniform
Where uniform is required for any role the OPCC uniform is gender neutral.

Identity pass and IT login
You and the employee will need to determine an appropriate time to re-issue the employee’s new identity pass with a new photograph.

There will be a small charge involved which is payable by the department and not the employee.

This will also generate a new IT login username which the employee must continue to use. Any old IT account must be closed and/or migrated to the new IT account.

This must be considered sensitively with the employee as part of the action plan. You must contact Facilities and IT management to arrange.

Confidentiality
You must treat information relating to the employee’s circumstances confidentially.

If there is a need to share information relating to the employee’s particular circumstances with another party, consent must be obtained from the employee before disclosing any information.

If the employee does not consent and there is a conflict between confidentiality and Health & Safety (including risk to the employee), the latter will take precedence. You must inform the employee in such cases and work with them to undertake any disclosures relating to Health and Safety requirements.

If an employee’s status is revealed without their consent you
must offer them appropriate support and advise them that they may access the OPCC’s Occupational Health and Wellbeing services for additional support.

Please see the support section of this how to guide for contact details.

In addition you must investigate how the ‘disclosure’ of their status occurred and whether any further action under the Managing Misconduct or Managing Performance policies is required.

For further advice please contact HR Operations.

7. How to deal with concerns/ issues raised?

**Reporting concerns**
An employee who believes that they are not being treated in line with the expected standards of behaviour or have witnessed such behaviour should report this to you, or another manager.

Further guidance can be found in the How to Guide – Dignity at Work.

**How to manage a concern that has been raised**
There is no formal procedure within this how to guide. If an issue is raised under this how to guide, one of the following HR policies should be used:

If the concern relates to unfair treatment, discrimination, inappropriate behaviour and/ or insensitivity that an employee has personally experienced or has witnessed, you can either:
- refer to the How to Guide – Dignity at Work for further guidance
- or use the Resolving Workplace issues policy to manage the concern in the initial stages and to complete any further enquiries.

Dependent on the nature of the concern, you will need to decide the appropriate and proportionate action to take and which policies to apply. You should move to using that policy and you will need to explain this to the parties involved. You will normally use either the:
  - Managing Performance policy – where the failure to comply with the standards of behaviour relates to a lack of skill, knowledge, experience or appropriate behaviours
  OR
  - Managing Misconduct policy – where the
behaviour/ conduct are defined as wilful or negligent or concerns are raised maliciously, for personal gain or where they are known to be untrue.

Dealing with concern relating to religion or belief and trans

Some employees who have particular religious belief or cultural views about gender presentation may feel their own 'protected characteristic' or religion or belief under the Equality Act allows them to refuse to work with or share facilities with employees who are have transitioned or who are trans, non-binary and non-binary.

There is no hierarchy amongst protective characteristics and one protected characteristic is not more important than another.

Although an employee’s religion or belief must be respected it must not be used to discriminate against another employee.

If an employee feels that they have been discriminated against they should report this to you, another manager as soon as possible.

Further guidance can be found in the How to Guide – Dignity at Work.

Data collection

All data collected is anonymised and cannot be used to identity employees. Any information used will be collected, used and stored in line with the Data Protection Act.

The OPCC will not tolerate any form of discrimination, including bullying, harassment, cyberbullying or victimisation.

8. The recruitment and retention of transgender staff

Genuine Occupational Qualifications (GOQ)

Where you have specific posts/ roles which provide special, personal care to employees of one sex only you may need to recruit a particular race, age or gender.

Before you advertise and recruit to the role, which may require a GOQ you need to confirm whether a GOQ is necessary or appropriate.

You must contact HR resourcing team before you advertise as the employee may challenge the GOQ requirement as being discriminatory.
### Adverts
When you are advertising a role you must ensure the wording is non **discriminatory** (gender neutral).

### Application forms
Applicants may not want to express a title on the application form. If you receive application form which the title has been left blank, you must not challenge the individual identity.

### Selection & interview processes
You must be able to produce a shortlisting matrix to assist you in assessing all applicants objectively, fairly and consistently.

Assumptions about skill or experience of the employee should not be made and you should only use the evidence that has been provided as part of the selection process.

You must not **discriminate** against an individual because of their gender (perceived or actual). For example not appointing or promoting applicants because of their birth or acquired gender (perceived or actual) would be seen as **discrimination**.

### References
If you are asked to provide a reference for an employee who has since transitioned then it is advisable to make direct contact with the employee (where possible) to discuss the reference.

When providing a reference you must be aware of sensitive or historic information that could reveal the employees assigned sex at birth. You must not reveal this information unless you have their express permission to do so.

For further information please refer to the How to Guide – References.

### Vetting and DBS checks
If the role does require a vetting check then the employee can contact the Police Vetting Unit and request that one named individual within the vetting unit will see their vetting form.

This can be discussed as part of the action plan/meeting with the employee.

For those roles which may require a Disclosure Barring Service (DBS) check, there is a confidential DBS process for trans applicants.

The employee can contact the DBS sensitive application line for further information.
9. Support

<table>
<thead>
<tr>
<th>Support for the manager</th>
<th>Any queries can be directed to HR Operations on 01962 813915 or <a href="mailto:hradvice@hants.gov.uk">hradvice@hants.gov.uk</a>.</th>
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<tr>
<td>Support for the employee and colleagues</td>
<td>A confidential counselling service is provided by the Wellbeing Helpline who can be contacted on <strong>0800 030 5182</strong>. A wide range of useful advice and information is available via the <a href="#">online support</a> pages.</td>
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**The Integrated Business Centre (IBC)**

The IBC support with transactional process relating to the employees pay, role, time off arrangements or absence processes during a transitioning process.

The IBC do not provide support or guidance on the application of this how to guide or the **transitioning** processes.

Employee queries of a transactional nature can be directed to the IBC through an enquiry form in ESS Lite.

Manager queries can be directed to the IBC through an enquiry on the manager's portal.

**External support for the employee, the manager or colleagues**

There are national groups/ charities that can support employees, managers and colleagues with further information. These include (this list in not exhaustive):

- **Stonewall** - [http://www.stonewall.org.uk/](http://www.stonewall.org.uk/)
  Stonewall is a lesbian, gay, bisexual and transgender (LGBT) rights charity which promotes and supports LGBT employees across all sectors of society.

- **Gender Trust** - [http://gendertrust.org.uk/](http://gendertrust.org.uk/)
  The Gender Trust is a charitable organisation promoting public education about transgender and gender identity issues and provides information to those affected.

- **Depend** - [http://www.depend.org.uk/](http://www.depend.org.uk/)
  Depend is an organisation offering free, confidential and non-judgemental advice, information and support to all family...
members, spouses, partners and friends of transsexual people in the UK.

**Gender Identity Research Education Society (GIRES)-**
http://www.gires.org.uk/

GIRES is a volunteer operated membership charity that, in collaboration with the other groups in its field, hears, helps, empowers and gives a voice to trans and gender non-conforming employees, including those who are non-binary and non-gender, as well as their families.

**The Equality and Human Rights Commission (EHRC)-**
https://www.equalityhumanrights.com/en

EHRC is a statutory non-departmental public body established by the Equality Act. The Commission operates independently and their aim is to be a centre of excellence for evidence, analysis and equality and human rights law.

10. Toolkit

Template action plan

11. Key definitions (in alphabetical order)

**Acquired gender** - the law uses the phrase ‘acquired gender’ to refer to the gender in which a transgender person lives and presents to the world. This is not the gender that they were assigned at birth, but it is the gender in which they should be treated.

**Actual or perceived sexual orientation** - where an individual thinks someone sexual orientation is, lesbian, gay, bisexual and then uses this information against that individual in a discriminatory way. For example a straight man is bullied at work because his work colleagues think he is gay, when he is actually straight. He would be protected from discrimination as much as if he was actually gay.

**Cross-dresser/ dual role** - someone who wears the clothes usually expected to be worn by someone of the ‘opposite’ gender. A cross-dresser or dual role employee is unlikely to have a full-time identity as a member of their cross-dressed gender and typically does not seek medical intervention.

**Data Protection Act 1998** - defines UK legislation on the processing of data on identifiable living people and controls how
personal information is used by the OPCC.

There are ‘data protection principles’ which the OPCC must comply with so the data must be:

- used fairly and lawfully
- used for limited, specifically stated purposes
- used in a way that is adequate, relevant and not excessive
- accurate and kept up to date
- kept for no longer than is absolutely necessary
- handled according to an employees data protection rights
- kept safe and secure
- not transferred outside the European Economic Area without adequate protection

**Discrimination** - is treating an individual or group of individuals differently than you would treat other individuals because of their **protected characteristic**. Discrimination may be **direct** or **indirect** and it may occur intentionally or unintentionally.

**Direct discrimination** - occurs where individual is treated less favourably because of one or more of the protected characteristics.

There are three different types of direct discrimination of treating someone less favourably because of:

- their actual gender (direct discrimination)
- their perceived gender (direct discrimination by perception)
- the sexual orientation of someone with whom they associate (direct discrimination by association).

**Gender binary** – someone who does not subscribe to the customary binary approach to gender and who may regard themselves as:

- neither male nor female
- both male and female
- another approach to gender entirely.

**Gender dysphoria** - describes the sense of a strong, persistent discomfort or distress caused by the difference between a person’s self-identified gender and the gender they were assigned at birth. **Transgender people** who seek medical intervention are typically diagnosed with ‘gender dysphoria’ as a first step.

**Gender identity** - an individual’s sense of self as a man, woman,
non-binary person or other sense of gender. An individual’s gender identity is typically expected to follow directly from the sex they were assigned at birth (based on physical attributes), but this is not always the case.

**Gender reassignment** – the process of changing or transitioning from one gender to another.

**Gender recognition certificate (GRC)** - a certificate issued under the Gender Recognition Act which enables trans people to be legally recognised in their acquired gender.

**Harassment** - is unwanted conduct that has the purpose or effect of violating someone’s dignity, or creating an intimidating, hostile, degrading, humiliating or offensive environment for them. Harassment related to any of the [protected characteristics](#) is prohibited.

Examples can include (this list is not exhaustive): ‘outing’ someone as transgender, verbal or physical abuse, excluding transgender employees from conservations or from social events.

**Indirect discrimination** - occurs where someone is disadvantaged by an unjustified provision, criterion or practice that also puts other individuals with the same [protected characteristic](#) at a particular disadvantage.

For example a requirement to work full time puts women at a particular disadvantage because they generally have greater childcare commitments than men. Such a requirement would need to be objectively justified.

**Mis-gendering** - an employee can be mis-gendered if they are referred to using a word, especially a pronoun or a form of address that does not correctly reflect the gender with which they identify.

**Non-binary person** – an individual who does not subscribe to the customary binary approach to gender, and who may regard themselves as neither male nor female, both male and female, or may take another approach to gender entirely.

**Protected characteristics** – the Equality Act 2010 legally protects people from discrimination in the workplace and in wider society. The Act defines that it is against the law to discriminate against an individual because of a protected characteristic. There are 9 protected characteristics covered by the Equality Act 2010.
They are as follows:

- disability
- gender reassignment
- marriage and civil partnership
- pregnancy and maternity
- race (colour, ethnic or national background)
- religion or belief (including non-belief)
- sex
- sexual orientation.

**Real life experience (RLE)** - is a period of time in which trans employees live full-time in their preferred gender role.

**Straight allies** - is a term used to describe heterosexual employees who believe that lesbian, gay, bisexual and trans employees should experience full equality in the workplace.

**Transgender (or trans) person** - a broad, inclusive term referring to any employee whose personal experience of gender extends beyond the typical experiences of those of their assigned sex. Amongst others, transsexual people, non-binary people and cross-dressers may all consider themselves transgender employees.

**Transsexual employee** - A transsexual employee may be an employee assigned female at birth that has transitioned or is transitioning to live as a man, or an employee assigned male at birth who has transitioned or is transitioning to live as a woman.

**Transgender man / Trans Man** - is a female to male transgender individual who was assigned female at birth but now has a male identity.

**Transgender woman / Trans Women** - is a male to female transgender individual who was assigned male at birth but now has a female identity.

**Transition** – taking the journey from an assigned gender to the gender the individual wants to be. This may refer to social transition (for example changing name, clothes), medical transition (for example hormones therapy and/ or surgery) or both.

**Victimisation** - this is less favourable treatment of an individual who has complained or given information about discrimination or harassment, or supported someone else’s complaint.
Roles and responsibilities

As the manager you are responsible for:
- providing support to individuals, as well as colleagues of the employee who is planning to transition, is transitioning or has transitioned
- considering reasonable adjustments and deciding whether to implement them where reasonable to do so
- protecting employees from any discrimination, harassment, cyberbullying, victimisation or unfair treatment
- deal promptly and effectively with cases where discrimination, harassment, cyberbullying or victimisation is alleged to have occurred
- referring the employee to Occupational Health as appropriate or necessary.

The employee who is planning to transition, is transitioning or has transitioned is responsible for:
- advising you of their particular circumstances where appropriate and/or necessary.
- working with you as the manager to ensure they have the right support within the workplace
- cooperating with an Occupational Health referral as appropriate or necessary

All employees are responsible for:
- ensuring they do not subject others to unlawful discrimination, bullying, harassment, cyberbullying or victimisation
- ensuring all employees are treated with dignity and respect
- reporting concerns of unfair treatment, discrimination, inappropriate behaviour and/or insensitivity to you (or a more senior manager if the concerns are about you) as soon as possible.

HR Operations are responsible for:
- advising on policy application
- supporting with case management
- reporting concerns of unfair treatment, discrimination, inappropriate behaviour and/or insensitivity to you (or a more senior manager if the concerns are about you) as soon as possible
The Integrated Business Centre (IBC) are responsible for:
- being sensitive to the particular needs of the employee
- ensuring historical documents and data are kept confidential and not are reviewed or referred to once the employee is transitioning or has transitioned
- providing suitable information as part of any reference for an employee who has left the OPCC, being aware of sensitive or historic information.

The Trade Union and Professional Association or OPCC work colleague is responsible for:
- supporting and providing advice to colleagues of the employee who is transitioning or has transitioned
- reporting concerns of unfair treatment, discrimination, inappropriate behaviour and/or insensitivity to you (or a more senior manager if the concerns are about you) as soon as possible.

12. How to guide Governance

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