

Transgender

A Practical Guide

2020



Gwasanaeth Tân ac Achub
De Cymru

South Wales
Fire and Rescue Service

RAISING AWARENESS - RAISING AWARENESS

Transgender

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South Wales Fire and Rescue Service

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Introduction

This guide gives information about the rights of transgender (Trans) people and suggests good practice for South Wales Fire and Rescue as an employer and provider of services.

Gender variation is nothing new. Trans people are recognisable throughout history and appear in every culture.

The term 'Trans' encompasses not just those who undergo medical procedures to alter their perceived gender, but it also includes those who identify as transgender without any wish to follow the medical path.

As of September 2020, Non-Binary is also covered under Trans in relation to protections afforded within the Equality Act (2010), and is automatically included under the Trans umbrella within this guide.

Difference between 'Sex' and 'Gender'

The assigned sex of a person is based on biology- the combination of X and Y chromosomes and perceived physical manifestation of them, that leads to assigning 'girl' or 'boy' at birth.

Some people are born with a variance of X and Y, and are medically labelled as 'intersex'.

Gender is a society construct and encompasses such terminology as: woman, man, feminine, masculine, etc; and leads to phrases such as girls can't do DIY and boys don't cry.

Transgender

Transgender has for years been confined to solely a medical model and condition (Gender Dysphoria). It was seen as being only 'fixable' by surgical and hormonal alterations. The process is lengthy and as a result, the Trans community has one of the highest rates of suicide and attempted suicide.

People who are Trans cannot relate to the entire physical package they were born in; it is foreign and does not belong to them. A few will be able to transition via the above mentioned surgical and hormonal alterations.

Other people may consider themselves as Non-Binary because they identify as both or neither, or as a combination which fits their view of themselves; and they have no plans to alter via the medical avenue.

There is a growing movement to also adopt the social model (similar to what happened with Disability), whereby it is acknowledged that barriers are generated by society, not the individual.

Our Commitment

Care and respect begins with appreciating that every person is an individual. SWFRS believes in the value of all staff, and as part of our commitment we continue to develop a positive approach to Trans equality.

We aim to enable people to participate fully and equally in all of our organisation's work. Respecting, supporting, and valuing all employees is key in attracting and retaining the best people as well as enabling us as a public service to be responsive to all areas of our community.

No service can afford the luxury of turning people away or allowing them to be forced from existing jobs on the basis of ignorance and prejudice. Not only is discrimination towards transgender people unlawful, it wastes talents and lives and is considered unacceptable at SWFRS.

Legal Framework

People who identify as transgender are protected under various clear aspects of legislation including:

- Gender Recognition Act 2004
- Data Protection Act 1998
- Asylum and Immigration Act 1996
- Disclosure and Barring Service (formally Criminal Records Bureau)
- Equality Act 2010

Also, within Wales, the Welsh Assembly have demarcated Transgenderism as a separate equality area within the Health portfolio.

Employing and retaining Trans people

The main barriers which can present themselves when recruiting or supporting current staff who identify as transgender, are usually contained within one of the following categories:

- Someone self-identifies as transgender although they express no intention of undergoing surgical alteration
- recruitment of someone who is already undergoing or has undergone gender reassignment

- the time when an existing member of staff discloses that they are planning to transition-either with medical intervention, or not.
- the previously undisclosed gender history of a trans employee becomes known to the colleagues or the public (or becomes the subject of speculation)

A current or new member of staff comes 'out' as non-binary.

Policies and procedures

As with all groups who are still marginalised within the social structure, clear and accurate usage of the Equality Risk/Integrated Assessment process is vital to ensure all policies and procedures are safety checked. This enables SWFRS to put in place the foundations necessary for enabling current and future Trans employees to be treated fairly and with respect.

This is highlighted further in the Service's Dignity at Work policy and Equality & Diversity Statement, as well as by a top level 'zero tolerance approach' to discrimination, bullying, and harassment.

Staff who identify as Trans or Non-Binary have full access to the Service's benefits and support as detailed in our policies, such as: family friendly, menopause, occupational health, etc.

Recruitment and interviews

Anyone who identifies as Transgender is not required to disclose their gender history as a condition of employment, and for many individuals this is a very private matter. If a candidate does choose to talk about their gender history, it would be unlawful to use this as a reason to not offer them a job. It is also unlawful to dismiss

someone for not disclosing their gender history, or for disclosing it a later date.

Chances are a member of staff or potential applicant who self-identifies as Trans will have experienced prejudice, harassment, and possibly even violence as a result of disclosure in the past and have good reason to suspect that this will happen again.

CORE System

Due to HMRC requirements, 'Gender' must be the same on CORE as what the tax office holds. Only if the person has a Gender Recognition Certificate (GRC), can tax and pension details be changed, otherwise it must stay as their birth sex.

This is set by HMRC and is beyond the control of SWFRS. Staff can indicate 'Gender Identity' within the relevant field.

(Other legal documents such as driver's license and passport, can be amended).

Disclosure and Barring Service (formerly CRB) disclosure applications

As with numerous other public sector organisations, a check via the Disclosure and Barring Service (formerly CRB) is required for new staff.

There is an agreed special process for anyone who is Trans, and although there are strict protocols regarding maintaining confidentiality, this process still ensures that any previous criminal

history cannot be hidden.

The Disclosure and Barring Service can be contacted by Trans applicants on: 0151 676 1452, or visit their website at: <https://www.gov.uk/disclosure-and-barring-service-criminal-record-checks-referrals-and-complaints> to state they will be using the special provisions.

Disclosures sent to the employee and their employer will not reveal the applicant's former identity unless they have an offence or caution that has been recorded in that name in police records.

In this case there is no way of avoiding the disclosure of that former identity to the employer. However, the organisation's policy for dealing with CRB applications and data should instruct staff on how to deal with this eventuality in a responsible and sensitive manner.

Changing gender identity via medical route

If an individual needs to pursue the medical process for surgical gender reassignment, the procedure s/he must go through is extremely complicated.

The person is required to live full time as a member of their 'new' gender for a minimum of two years prior to surgery. During this period, the staff member's identity, name, and other records will be formally changed.

At all times confidentiality within the organisation about any information provided by an employee regarding their gender identity must be maintained.

An employee who is planning on using the medical model, should first inform a manager or a colleague from Human Resources, and agree their main point of contact (ideally their line manager) who will manage the transition from the organisation's side.

Transition period action plan

An action plan should be agreed setting out how the transition will be handled at work, including informing colleagues, medical timeline of appointments, surgery dates (when known), etc.

It is useful to remember that the person who will be transitioning will have a wealth of information and their personal expertise should be valued.

Absence from work – sick leave

A person who undergoes medical and surgical procedures relating to gender reassignment will require some time off work in order to attend appointments, for operations, and also during the recuperating stages.

When the individual needs to be absent for treatment or surgery, then normal sick pay arrangements should apply. Any reasonable absence because of the effects of treatment for gender reassignment should not normally be taken into account for the purposes of formal action for unsatisfactory attendance.

The extent of any surgical procedures will vary according to the needs of the individual. SWFRS is required by law to treat absence for gender reassignment treatment in the same way as sick leave.

Depending on age, when, and type of surgery/ medical interventions, there may still be a requirement for the member of staff to attend health checks and screenings associated with their birth gender.

(FtMs might also experience menopause type of symptoms, and can access related support as per our menopause policy).

Although not linked to Gender Reassignment, but as best practice, any intersexed member of staff who has decided/needs to undergo related surgery/medical treatments, will also be entitled to the support conveyed within this guide, and as contained in other policies.

Absence from work- annual leave

Whenever possible, flexibility will be given to individuals who may need to take leave at short notice or rearrange working hours in order to attend additional appointments outside of work.

Confidentiality

Whether a member of staff is undergoing medical reassignment, or self identifies as transgender without medical intervention, there is a clear requirement to maintain confidentiality.

Colleagues, general public and external partners may learn of the transition and as an employer SWFRS would assist and support the individual in managing this should it occur.

All of our employees are professionals and are expected to treat

their transitioning colleague with the respect due. However, should any issues arise, policies such as Dignity at Work as well as potentially the Disciplinary procedure, will be activated.

It is usually good practice for employers to take responsibility for informing those who need to know but the wishes of the individual should be given priority.

Use of facilities

The use of toilets, locker rooms and showers can occasionally be an issue in the workplace, particularly during the early stages of transition if colleagues were familiar with the employee in their former role.

The usual point for starting to use opposite gender facilities will be the day the employee starts coming to work in that role. It is not acceptable to insist that a Trans person use the same facilities as previously, or an accessible toilet; doing this may count as unlawful discrimination.

Uniform

Where an employer provides a uniform then they are legally bound to provide a new uniform that is consistent with any change in gender role. It is essential that the individual receives any new uniform as early as possible in order for them to try it on at home and become comfortable wearing it.

Record keeping

As with records of any employee, the information contained within will be treated confidentially.

There may still be some records which identify a person's gender history, such as records of absence for medical treatment. For people without a Gender Recognition Certificate, some records (for example those relating to pensions and insurance) may include a reference to their biological sex.

Access to information

Access to any records showing the change of name and any other details associated with the person's transgender status, should be placed in a sealed envelope and restricted to staff who 'need to know' for specific reasons.

'Need to know' refers to those directly involved in the administration of a process, for example the personnel officer, or the person who authorises payments into a pension scheme.

Breaches of confidentiality should be treated in a serious manner

and may amount to unlawful harassment.

Finally

Each person brings to South Wales Fire and Rescue Service a unique blend of skills, talents, and value which assists in making this organisation the gold standard service that it is.

South Wales Fire and Rescue Service sees this guide as part of the organisation's propagation of changes it is actively pursuing to ensure it continues to be a 21st century employer and service provider.

Further Reading

Other documents, which may be useful to also read, are listed below:

- “Bargaining for Transgender Workers Rights”, Unison 2008.
- Transgender Guidance- Avon Fire Service, 2008
- Networking Women in the Fire Service- Transgender Guide, 2009
- “Trans: A Practical Guide for the NHS”, Christine Burns 2008
- “Trans Research Review”, Equality and Human Rights Commission 2009

If you have any questions on this Guide, please contact the Diversity Unit: **diversity@southwales-fire.gov.uk**

Appendix 1: Glossary of terminology relating to Transgenderism

Authentic gender:

The new gender of a person who has had their gender reassigned and/or legally recognised. It is possible for an individual to transition fully without surgical intervention.

Assigned at Birth/Birth Sex:

This is based on a physical assessment at birth which results in being labelled a boy or girl.

FtM:

A person who is changing, or has changed, gender role from female to male. Also described as a 'trans man'.

Gender dysphoria:

Gender dysphoria is the medical term for the condition with which a person who has been assigned one gender (usually at birth on the basis of their sex), but identifies as belonging to another gender, or does not conform with the gender role their respective society prescribes to them.

Gender Identity/Expression:

Gender, in this term, relates to a person's outward expression; it is the 'man' / 'woman' labels as opposed to the 'female' / 'male' ones given at birth and based upon physical characteristics.

(Eg; A woman with traits society deem to be 'manly', may find herself often being called Sir).

GRA:

Gender Recognition Act 2004

GRC:

Gender Recognition Certificate. A full Gender Recognition Certificate shows that a person has satisfied the criteria for legal recognition in the acquired gender. It makes the recipient of the certificate, for all intents and purposes, the sex listed on the certificate from that moment onward. The legal basis for creating a Gender Recognition Certificate is found in the Gender Recognition Act 2004.

GRS:

Gender reassignment surgery

The medical model of aligning the physical with the internal.

Hormone therapy:

A treatment in which the hormones naturally occurring in the bodies of trans people are replaced with those of the other sex. The purpose is to create the physical characteristics of the other gender.

Intersex:

The formal term for people who have a biological mix of X and Y chromosomes which are not aligned to the sex they were assigned at birth.

This may involve surgery and/or medication (often at pre-puberty and decided by parents), to enhance or subdue traits so the person 'becomes' one sex or the other. Some intersexed people may require/need corrective surgery in adulthood.

MtF:

A person who is changing, or has changed, gender role from male to female. Also described as a 'trans woman'.

Non-Binary:

Someone who does not subscribe to one gender expression or the other, or considers themselves to be a combination of both.

Transgender:

An umbrella term for people whose gender identity and/or gender expression differs from their birth sex. They may or may not seek to undergo gender reassignment hormonal treatment/surgery. Often used interchangeably with Trans.

Appendix 2: Summary of Legislation

Equality Act 2010

The Act requires authorities to have due regard to the need to:

- eliminate unlawful discrimination and harassment
- promote equality of opportunity
- foster good relations between different groups

The Act also specifically requires public bodies to eliminate unlawful discrimination and harassment in employment and vocational training for people who intend to undergo, are undergoing, or have undergone gender reassignment.

As of Sept 2020, Non-Binary is legally recognized as covered under the protections of 'Gender Reassignment' (Trans) within the Act.

Gender Recognition Act 2004

The Gender Recognition Act enables people aged over eighteen to gain full legal recognition for the gender in which they live.

Not everyone will go down this route, due to the complexity, length of time, costs, etc of the process. The main benefits of getting a GRC are to amend tax/pension details, get a new birth certificate, and 'marry' in their authentic gender.

Sex Discrimination Act 1975, as amended by the Sex Discrimination (Gender Reassignment) Regulations 1999

The Sex Discrimination (Gender Reassignment) Regulations 1999 amend the Sex Discrimination Act 1975 to make it unlawful to discriminate on grounds of gender reassignment in employment and vocational training. Any claim is brought under the Sex Discrimination Act.

In 2005, the Sex Discrimination Act was amended to expressly outlaw harassment on grounds of sex and on grounds of gender reassignment.

The Sex Discrimination Act was further amended in April 2008 so that an employer is now clearly liable if an individual is harassed by a third party during the course of employment, in circumstances where the employer knows that the person has been subjected to such harassment on at least two other occasions (whether by the same or a different third party) but has failed to take steps to prevent it.

There are several specialist Trans equality groups in the UK, including:

Gender Identity Research & Education Society (GIRES)
Melverley
The Warren
Ashtead
KT21 2SP
www.gires.org.uk

Press for Change

Appendix 3: Available Support

Employee Assistance Programme

A free and confidential 24/7 counselling service provided by Care First, and which doesn't require a manager's referral. Phone: 0800 174319

Counselling via Manager's Referral

A set number of face-to-face counselling sessions which require manager's referral. If not comfortable approaching manager, contact Jan Nancarrow of Absent Management Team.

Colleague Support

Colleague Supporters are NOT counsellors, but can provide support and guidance to empower individuals to deal with their issues and concerns. All information disclosed is treated in the strictest of confidence and no names or details are ever divulged unless at the request of the individual seeking support.

Appendix 4: Care Plan Guidance and Template

WHO THIS PLAN IS FOR

A member of staff who has stated they are *Trans or Non-Binary, and will be undertaking any or all of the following:

Medical interventions:

Hormone treatments via primary care (GP) or private facilities (such as Gender GP, Gender Care, etc) to align their presenting gender with who they are.

If a member of staff is self-medicating with hormones via the internet, this could put their health at great risk; a referral to Occ. Health should therefore be considered.

Surgical interventions:

Surgical augmentation either via the WYST pathway (NHS) or via a private provider.

Name alterations:

From present name to one which aligns with their self-identified gender.

CONFIDENTIALITY

The Trans Workplace Care Plan is a confidential document charting the agreed actions of a member of staff during transition, and is to be treated as highly confidential.

Access to content by a third party can only be granted if employee provides consent to share their Plan. Any consent must be specific and include: who the recipient is, reason for sharing, plus a destroy date.

CARE PLAN CATEGORIES

ITEM

Medical appointment, workplace adjustment, update meeting, Occ Health, counselling, internal system notification, etc

DATE DETAIL

The detail, such as what type of medical appointment and any know occurrences such as every month.

OUT OF SCOPE

Any element which is out of Plan's ability- eg reactions of colleagues, delay in new workwear, HR systems not able to register new details, etc

ACTIONS

Who will do what:

Person, Manager, Occ Health doctor, etc

Agreed Dates:

for actions and update meetings

Care Plan Template

Trans Workplace Care Plan for

CONFIDENTIAL

ITEM	DATE	DETAIL	OUT OF SCOPE	ACTION
Medical appointment, workplace adjustment, update meeting, Occ Health, counselling, internal system notification, etc		The detail, such as what type of medical appointment and any know occurrences such as every month.	Any element which is out of Plan's ability- eg reactions of colleagues, delay in new workwear, HR systems not able to register new details, etc	Who will do what: Person, Manager, Occ Health doctor, etc Agreed date(s) for actions and update meetings.

For additional information, or to arrange a confidential chat about any section of this Guide, please contact the Diversity Unit at: diversity@southwales-fire.gov.uk



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