

<b>Procedure 6.19 Trans and Gender Identity</b>					
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**Procedure Owner** : Principal / CEO

- ❖ This procedure is shared with our staff and / or can be obtained:
  - on our website <https://docklandsacademy.co.uk/policies-and-procedures>,
  - on our internal server,
  - by emailing us at [info@docklandsacademy.co.uk](mailto:info@docklandsacademy.co.uk).
- ❖ Also, our staff are informed about the main aspects of the policy in the Staff Handbooks and Staff Induction.
- ❖ The procedure is reviewed and monitored on a regular basis for currency and fitness as part of our 1.9 Review and Revision of Policies and Procedures.

## **1. Introduction**

1.1 This Procedure has been developed to provide support and understanding for individuals who wish to, have taken, or are intending to take steps to present themselves in a gender different to that registered at birth and those who identify as gender non-conforming (non-binary). It also provides guidance and support to all staff providing support to others who are transitioning.

1.2 The Academy is committed to equality for transgender and gender non-conforming people and to creating a culture in which equality of opportunity is promoted actively. Unlawful discrimination, harassment and victimisation based on a person's gender identity and/or expression is not tolerated.

1.3 This procedure is applicable to students and staff and provides information on the support and advice available to anyone who is intending to, is or has undergone gender re-assignment. It is also applicable to those who identify as gender non-conforming. The procedure provides guidance for managers and others supporting anyone through transition and beyond.

## **2. Terminology**

The language around gender identity, presentation and transition is a constantly changing landscape. These are the key terms that we refer to throughout this procedure.

**2.1 Trans** - as an umbrella term for those whose gender identity or expression differs in some way from the sex they were registered as at birth

**2.2 Gender reassignment** is the protected characteristic covered by the Equality Act 2010. It states 'a person has the protected characteristic of gender reassignment when they propose to undergo, are undergoing or have undergone a process (or part of a process) for the purpose of reassigning the persons sex by changing physiological or other attributes of sex'.

**2.3 Gender non-conforming people** are those who do not identify with a permanent binary gender identity, including those who identify in other ways e.g. non-binary, gender queer or gender fluid. This is not an exhaustive list and the term for gender identity is a personal one and will change from individual to individual.

**2.4 Gender expression** refers to how an individual outwardly expresses their gender in the way which they dress, live and refer to self

**2.5 Transitioning** – is different for different people; for those undergoing gender re-assignment, transitioning is undergoing a process to permanently live in the sex opposite to that which they were registered as at birth i.e. male or female. This type of transition is known as gender reassignment and is a protected characteristic under the Equality Act 2010. For others who identify as a gender non-conforming, transition is about changing how they represent themselves in a way that is non-binary, and how others see them. This may include changing their names, their title, how they dress and changing other indicators of a binary identity of male or female. In this instance these individuals do not intend to live their lives in another sex to that registered at birth, rather they feel they don't necessarily conform to any one single sex. This group are not protected by Equality Act 2010.

**2.6 Gender Recognition Certificate** is issued when a person has met the legal criteria under the Gender Recognition Act 2004 to allow them to legally change their gender on their birth certificate and related documents. It is unlawful to request someone to produce a Gender Recognition Certificate and it is only one of a number of ways of legally changing your name/identity. Other means include deed poll and Statutory Declaration of Name Change which will allow changes to a driver's license and utility bills.

**2.7 Statutory Declaration of Name Change** is a legal undertaking before a solicitor that is an approved and legal means of changing your identity/name. It is an accepted form of changing names for the Academy and for driver's licenses and passports issued in the UK.

**2.8 Deed Poll** is a legal process in the United Kingdom to change names and is done by applying to and meeting the criteria of the UK Government. A Deed Poll will stand as evidence should you wish to change your formal identity in the UK.

### **3. Aims and Objectives**

3.1 The Academy will support all staff and students who wish to, have taken or are taking steps to present themselves in a different gender to that recorded at birth, whether in a binary or non-binary way and includes those people who are intersex and gender non-conforming. The Academy will use the umbrella term trans throughout the procedure to cover all these groups. This procedure and guidance are an acknowledgement of the contribution all staff and students, including trans people, make to the success of the Academy.

### **4. Rights and responsibilities**

4.1 The Academy will:

- respect the confidentiality of all trans student and staff identities and will not reveal information relating to their trans status without prior agreement with the individual
- provide a supportive environment for students, staff and visitors who wish their trans status or non-binary gender identity to be known to others
- ensure that transphobic bullying, harassment, discrimination, victimisation and abuse are unacceptable and dealt with through relevant HR procedures (6.5, 6.8, 6.13, 6.16)
- Take steps to ensure that the environment for its students, staff and visitors reflects the diversity of the Academy community.
- ensure that changes to student and staff titles, name and gender on records are handled promptly and confidentially as required in legislation
- HR will ensure that all records of an individual's previous details, name, gender etc. are stored securely and separately from their current personnel record
- include gender identity in equality training

take steps to ensure that curriculum materials do not rely on or reinforce stereotypical assumptions about trans people and that the material is inclusive

ensure trans staff, students and visitors have safe use of facilities and in line with relevant legislation.

In relation to placement and oversees work, students and staff must be fully aware of the cultural and political position of the host country in relation to trans matters, and a thorough risk assessment is undertaken to take active steps to provide ongoing support for trans staff and students in placement or working internationally.

4.2 All trans and gender non-conforming students and staff have the following rights:

- Choose whether to disclose their gender identity, to whom they disclose it and the circumstances under which they disclose it.
- Request the Academy to update documents, records and systems to reflect their new gender role

- Have access to opportunities, courses, placements and fair and equal treatment regardless of their gender identity, expression, or because they propose to or have transitioned. In relation to international placements, there may be a need for a risk assessment to ensure safety of the individual. This would also apply to other non-trans staff and students.
- Access opportunities for employment, promotion or redeployment in the same fair and equal manner as their non-trans colleagues.

#### 4.3 Managers and teachers must:

- Respect the confidentiality of the individual in relation to their gender identity or status.
- Support anyone going through any medical process to reassign their gender and provide direction to wider Academy support mechanisms where necessary in line with Human Resources, Student Services, Equality & Diversity, Welfare Services related procedures.
- Support anyone wishing to change their name, records etc.
- Understand the enormous size of the step to change or present in a different gender to that recorded at birth
- Challenge any transphobic conduct in the work and study environment and deal with it appropriately
- Consider any mitigating circumstances in relation to undertaking gender re-assignment – this could be in relation to absence for medical or surgical procedures; having to address issues affecting the culture in which they are studying or working.

#### 4.4 Staff and students must:

respect the confidentiality of individuals in relation to their gender identity or status

inform their line manager or teacher of any support they may need in relation to transitioning or gender identity. Where they do not feel comfortable disclosing matters to their line manager or tutor, they can seek support from Student Services, who will provide that support.

comply with the Academy's Procedure 6.3 Equality and Diversity in relation to behaviours, including transphobic behaviours.

have the right to report any incidents of transphobic behaviour and for that report to be dealt with appropriately. This would be taken forward through Procedure 6.3 Equality and Diversity.

## 5. Guidance

### 5.1 Preparing for transition

This applies to both staff and students who plan to undergo reassignment surgery or who wish to present in a different gender but are not intending to undergo reassignment surgery.

### 5.2 Student

When a student makes the decision to transition, the first step should be to contact Student Services. These Services will provide information on the range and type of support available and the practical steps that need to be gone through.

It is best practice at this stage for the student to agree a support plan that will include:

- Key dates for medical appointments. This does not include details of the type of medical appointment, however an idea of time off from studies to attend and recuperate will help determine what support might be needed to allow them to continue and complete their studies.
- Planned start date when the student will start to present in a different gender, whether full time or part time and how other students and staff will be told and a summary of how and when the student's information will be shared and managed.
- Considerations to limit the impact on the student's learning and adjustments to attendance, deadline or assessments. Addressing cultural issues that may impact should also be considered.
- Changes to the students record and identity, including email address and titles, how and when these will happen
- What to do if facing transphobic abuse, bully or harassment as a consequence of transitioning, through the use of the procedure 6.3 Equality and Diversity.

This plan is not exhaustive, and it is important that the student is involved in the development of this plan and has control of timescales.

### **5.3 Staff**

When a staff member makes the decision to transition, their first step should be to contact HR and discuss the steps needed for effective transition. Again, best practice would be to develop an agreed support plan.

The steps required are similar to that of students and include:

- Key dates for medical appointments if needed. This should include any time required for reassignment surgery and recuperation.
- Planned start date when the staff member will present in their chosen gender
- Steps on how and when other staff will be informed
- Changing personal details, names, titles etc. and how the information will be stored
- Reasonable adjustments to working environment/activity to support any medical interventions needed for re-assignment (this must be based on the individuals own circumstances)
- What to do if facing transphobic abuse, bully or harassment as a consequence of transitioning
- Changing personal details
- Changing names and titles is a significant step for anyone transitioning. There are two levels of name change:

When a person changes to be 'known as' – informal

When a person fully and formally changes their name

The former does not change the legal identity of the individual on staff or student records but may be a useful first step for the individual in living in their new identity.

The second formally changes all staff and student records and is necessary if a student wishes to graduate in their new name. This step needs to be supported by evidence of a legal name change, whether a passport, by deed poll or Statutory Statement of Name Change, and these must be provided to the Academy to complete the formal change.

#### **5.4 Changing Names / Titles - Students**

To change your name and title informally, the Academic Department hold a Change of Circumstance / Contact Details form that should be completed. This form allows anyone to register their formal name but also provides a 'Known as' option. It also allows individuals to change their preferred title. This option will not change formal Academy records and so graduation names would remain the same as the formal recorded name.

For anyone wishing to make a legal change to their name and gender on official records, they must provide information to Registry. For details of this process go to the Registry webpages. This would ensure that individuals graduate in their chosen identity.

To comply with UK legislation, proof of identity and transition is required. Trans students will NOT be asked to provide a Gender Recognition Certificate; however, a deed poll record, 'Statutory Declaration of Name Change' or a passport showing a new gender will suffice.

Providing a passport with a new gender may prove difficult for non-UK students, particularly those from countries that do not support gender reassignment, or non-binary identities. However non-UK nationals can still obtain a deed poll or 'statutory declaration of name change' to update records held by the Academy and UK Visa and Immigration (UKVI). Information on the current position is available from Registry, The Enquiry Centre and the Equality, Diversity and Inclusion Office.

Tier 4 students are required to inform UKVI of any legal name change.

#### **5.5 Changing Names / Titles - Staff**

Staff who wish to change either their name or title can do so by contacting HR and completing the change of personal details form.

By submitting the form, necessary changes can be made to e-mail details and personnel files. It is only accessible to certain members of HR and are confidential. Proof of change of names or gender, through deed poll or by other legal means, is required to provide formal information for pay and pension providers. HMRC guidance on gender change.

Non-UK staff members, particularly those on restricted visas, may experience similar difficulties as students in getting the necessary information to prove change of gender. However as

previously stated, a deed poll record, 'Statutory Declaration of Name Change' or passport with new gender and name will suffice.

## **5.6 Use of facilities**

Staff, students and visitors to the Academy, who have transitioned, are transitioning or intending to transition from one sex to the other, have the legal right to use the facilities relevant to the sex they identify with. This protection is provided by the Equality Act 2010.

Those who are gender non-conforming do not have protection under the Equality Act 2010 and where gender neutral facilities are not available, should use facilities in line with the sex which they were registered as at birth.

Gender reassignment and transitioning IS NOT a disability and no one who has transitioned, or is gender non-conforming, should be expected to use the disabled access facilities unless they have a disability.

## **5.7 Bullying and harassment/transphobic incidents/discrimination**

The Academy will not tolerate Bullying and harassment of any sort.

In relation to trans and gender identity, research indicates that trans people experience higher levels of bullying, discrimination and harassment in society, in employment and in higher education.

Procedure 6.3 Equality and Diversity prohibits bullying, harassment, and victimisation on the basis of an individual's trans status, the assumption of trans status and their association with someone who is trans. Examples of bullying, harassment, victimisation are:

- Deliberately or continually misusing an individual's gender pronoun or name (misgendering)
- Using abusive transphobic language
- Disclosing someone's trans status without permission
- Making derogatory comments about an individual, their appearance etc.
- Deliberately isolating or avoiding someone
- Intrusive questioning about an individual's trans status

This is not an exhaustive list.

The procedure for making complaints and investigations relating to bullying, harassment and victimisation can be found in full detail in Procedure 6.8 Grievances and Complaints

Where an individual is unsure of how to recognise transphobia, or to address or report behaviour that affects them or a third person, they should contact the HR and Student Welfare team for support and direction.

## **5.8 Sickness absence**



Where an individual is undergoing surgical reassignment procedures, these will be recorded as absences, but will not trigger an absence review. This includes cosmetic procedures related to transitioning and follows best practice advice.

Where the absence relates to health matters not linked to the reassignment process, they will be recorded in line with relevant absence procedures.

## **6. Further Information**

### **6.1 Legal context**

- Equality Act 2010 - Gender reassignment is one of the nine protected characteristics under this legislation. The legislation makes it unlawful to discriminate, victimise or harass someone because they are intending to, taking steps to or have undertaken transition from one biological sex to another. This includes the use of facilities that match the sex to which they identify. This legislation does not protect those who are gender non-conforming or identify as non-binary.
- The Gender Recognition Act 2004 prohibits the disclosure of someone's gender history and the fact that they have applied for a gender recognition certificate. Disclosure is a criminal offence.
- Data Protection Act 2018 – controls the use of personal data and includes the misuse of personal data relating to an individual's transitioning.
- Human Rights Act 1998 – Article 8 and Article 14 provide the right for respect of a private and family life and the right to live life free from discrimination. This includes those with protected characteristics under the Equality Act 2010 and other status.

## **6. Related Documents**

### **6.1 Policies**

- 1 Governance
- 2 Academic Management
- 3 Teaching Learning Assessment
- 4 Student Admissions
- 5 Student Support, Engagement and Learning Resources
- 6 Human Resources
- 7 Information

### **6.2 Procedures**

- 1.5 Equal Opportunities
- 1.6 Ethics Protocols
- 1.7 Data Protection
- 1.9 Review and Revision of Policies and Procedures
- 1.10 Conflict of Interest
- 1.11 Freedom of Speech and Expression



- **2.10** Special Circumstances Affecting Study
- **4.1** Enrolment and Selection
- **4.6** Student Induction
- **4.11** Student Protection Plan
- **5.2** Welfare Services and Pastoral Care
- **5.3** Equality, Diversity and Special Needs
- **6.1** Recruitment and Selection
- **6.2** New Starters and Induction
- **6.3** Equality and Diversity
- **6.4** Personal Development and Performance Review
- **6.5** Discipline at Work
- **6.6** Absenteeism and Lateness
- **6.7** Holiday and Leave Entitlement
- **6.8** Grievance and Complaints
- **6.9** Continuous Professional Development
- **6.11** Requests for Training
- **6.13** Staff Code of Conduct
- **6.15** Safeguarding
- **6.16** Prevent Duty (Racist, Discriminatory, Abusive and Extremist Behaviour)
- **7.4** HE Public Information Procedures
- **9.1** Access Procedures
- **9.4a** Health and Safety Risk Assessment

## 12.3 Terms and Conditions

## 12.4 External Reference Points

- Equality Act – 2010 at <https://www.legislation.gov.uk/ukpga/2010/15/contents>
- Data Protection Act 2018 at <https://www.legislation.gov.uk/ukpga/2018/12/contents>
- <https://www.gov.uk/guidance/advice-and-support-for-lgbt-people>
- Stonewall <https://www.stonewall.org.uk/>
- Trans Unite <https://www.transunite.co.uk/>
- The Gender Recognition Act 2004 <https://www.legislation.gov.uk/ukpga/2004/7/contents>
- UK Professional Standards Framework for teaching and supporting learning in Higher Education at [https://s3.eu-west-2.amazonaws.com/assets.creode.advancehe-document-manager/documents/advance-he/UK%20Professional%20Standards%20Framework\\_1570613241.pdf](https://s3.eu-west-2.amazonaws.com/assets.creode.advancehe-document-manager/documents/advance-he/UK%20Professional%20Standards%20Framework_1570613241.pdf)
- CIPD Code of Professional Conduct at [https://www.cipd.co.uk/Images/code-of-professional-conduct-april-2020\\_tcm18-14510.pdf](https://www.cipd.co.uk/Images/code-of-professional-conduct-april-2020_tcm18-14510.pdf)
- Office for Students (OfS) Requirements and Guidance at <https://www.officeforstudents.org.uk/advice-and-guidance/regulation/>
- UK Quality Code Advice & Guidance – Concerns, Complaints and Appeals at <https://www.qaa.ac.uk/en/quality-code/advice-and-guidance/concerns-complaints-and-appeals>
- Higher Education Code of Governance (Committee of University Chairs, December 2014) at

<https://www.universitychairs.ac.uk/wp-content/uploads/2020/09/CUC-HE-Code-of-Governance-publication-final.pdf>

- **Association of Employment and Learning Providers (AELP) principles of Good Governance for Independent Training Providers** at <https://www.aelp.org.uk/media/2595/code-of-governance-final-sept-2018.pdf>
- **OIA The Good Practice Framework for Complaints and Appeals** at <https://www.oiahe.org.uk/resources-and-publications/good-practice-framework/>
- **Competition and Markets Authority Guidance for HE Providers** at <https://www.gov.uk/government/publications/higher-education-consumer-law-advice-for-providers>
- **UKCISA Code of Ethics** at <https://www.ukcisa.org.uk/Membership/Codes-of-practice/Code-of-ethics>