

# **City of Lincoln Council**

## **Gender Reassignment / Transgender policy**

### **Purpose of policy**

This policy outlines the Council's commitment to ensuring that transgender employees are treated with dignity and respect and are not disadvantaged in the workplace.

The policy sets out the steps the Council takes to welcome and support transgender employees and prevent discrimination.

### **Scope**

The policy covers all employees, temporary workers and job applicants and applies to all stages of the employment relationship.

The policy accompanies the Council's equal and diversity policy and dignity at work policy.

Failure to take account of this policy may result in disciplinary action being taken against an employee.

### **Our commitment**

The Council believes that diversity and inclusion bring benefits to the business and that people work better when they can be themselves.

The Council is committed to welcoming and supporting transgender employees and removing barriers to their recruitment, promotion and retention. Providing a working environment that is free from discrimination, harassment or victimisation because of gender identity is an important step in ensuring that transgender employees are respected and valued.

### **Definitions**

Definitions and terminology regarding transgender people are evolving. Individuals will self-identify and how they choose to describe themselves should be respected by their managers and colleagues. Rather than assume, it is best to ask someone how they wish to be addressed.

Using inappropriate language and terminology can cause offence and distress and undermines the Council's efforts to create an inclusive workplace for transgender people.

The Council recognises that gender identity and sexual orientation are not interchangeable terms. Transgender people can be bisexual, gay, heterosexual or lesbian and so employees should not assume that a transgender colleague has a particular sexual orientation.

## **The law**

### ***Equality Act 2010***

Gender reassignment is one of the nine protected characteristics covered by the Equality Act 2010. The Act protects a person from discrimination, harassment and victimisation if they are "proposing to undergo, are undergoing, or have undergone a process (or part of a process) of gender reassignment". There is no requirement for the person to be under medical supervision as gender reassignment is considered to be a personal rather than a medical process. Under the Act, a person who takes time off work for gender reassignment must not be treated less favourably in respect of employment decisions, for example by being denied access to training or promotion opportunities.

The Act also protects anyone who is perceived to have the characteristic of gender reassignment or is associated with someone who has the protected characteristic of gender reassignment, such as an individual's partner or a friend.

An employee who treats a colleague less favourably because of gender reassignment, for example by refusing to work for them, may be held personally liable for discrimination.

### ***Gender Recognition Act 2004***

The Gender Recognition Act 2004 allows transsexual people to apply for a gender recognition certificate (GRC), which will give them legal recognition in their acquired gender and enables them to obtain a new birth certificate. The Act safeguards the privacy of an individual with a GRC by defining information relating to the gender recognition process as "protected information" and, except "in certain specific circumstances" (for example, for the purpose of preventing or investigating crime), it is a criminal offence to disclose such information without the individual's consent.

An application for a GRC will be made to the Gender Recognition Panel. Individuals are required to provide a medical diagnosis of gender dysphoria and evidence that they have lived in their acquired gender for two or more years and intend to do so permanently.

Transgender people are not required to apply for a GRC and many choose not to for various reasons. For example, someone may choose not to apply because they are in an existing civil partnership and would need to dissolve this or convert it to a marriage, as the law prohibits civil partnerships between people of the opposite sex. An individual should never be asked if they have a GRC and to do so could be considered harassment.

## **How the Council supports transgender employees**

The Council recognises that transgender job applicants and employees are not required to inform the Council of their gender status or gender history.

To promote a workplace that is inclusive of transgender people, the Council adopts the following approach.

## **Recruitment**

The Council wishes to attract applicants from as wide a talent pool as possible and the recruitment process is designed to be inclusive of transgender applicants.

Job advertisements should make clear that opportunities are open to all suitably qualified applicants.

Managers must not ask questions about an applicant's gender identity or gender history. If an individual chooses to mention this during the interview, they should be informed that the Council supports transgender employees and assured that the disclosure will have no bearing on the outcome of the interview and will not be revealed outside the interview room.

The requirement to provide proof of identity to confirm the right to work in the UK can be particularly sensitive for a transgender applicant whose identification documentation may be in their previous names. The Council will always ensure that an applicant is made aware of the full range of permissible identification documents and that the process of checking is handled sensitively and with respect for privacy of the individual.

Where an individual's documentation reveals their previous name and thereby their gender history, this information will be kept confidential and stored securely with the permission of the individual and in accordance with the requirements of data protection legislation. The same approach will apply where an applicant is required to present qualification certificates before a job offer is confirmed and the certificates are in the applicant's previous name.

## **Monitoring**

In line with its policy on equality and diversity, the Council will monitor the gender identity and trans status of the existing workforce and of applicants for and will review its equal opportunities policy on an annual basis. If any changes are identified, the Council will implement them accordingly.

The disclosure of information by employees/job applicants is voluntary and any information disclosed will be treated in confidence, stored securely and used only to provide statistics for monitoring purposes.

## **Employment**

An employee who is transitioning may wish to be redeployed on a temporary or permanent basis. This may be because: the individual is in a public-facing role and wishes to avoid having to answer questions from the public about gender status; or

the role involves particular tasks, for example heavy lifting, that will be difficult to undertake if undergoing a particular type of treatment. Requests to be redeployed will be discussed with the employee and, where possible, the Council will seek to accommodate the employee's wishes.

A manager should not put pressure on an individual to change jobs or make assumptions about their capability or wishes.

An employee's gender history or status will not have a bearing on any employment decisions or access to benefits, except where permitted by law. For example, an individual who has transitioned but does not have a GRC may be required to disclose their gender history for insurance and pension purposes. In such circumstances, the Council will treat such information as sensitive data and it will be handled in line with the requirements of data protection legislation.

Where pension and insurance providers request disclosure of an individual's gender status, the Council will ensure that this requirement has been checked with the underwriter and the requirement is made clear in any scheme information provided to employees. In such circumstances, the employee's written consent will be obtained before disclosing their gender history and status.

## **Names and pronouns**

The Council will take all necessary steps to ensure that an individual's change of name is respected. The Council is aware that a failure to change pronouns and names on records in respect of a transgender employee could constitute direct discrimination.

A GRC is not required to enable a transgender person to change their name and the Council will never ask an individual if they have a GRC to verify a name change, as to ask such a question would be inappropriate.

Consistently addressing a transgender employee by their previous name and/or an inappropriate pronoun may be regarded as harassment and will be dealt with accordingly.

## **Changing employee records**

Any records that hold personal details should be changed by the time the individual presents at work with their new identity. Records will include all of the systems that may contain names, titles and other personal identifiers such as photographs on the Council's website and intranet. The Council will work with the employee to ensure that nothing is omitted.

## **Confidentiality**

All records that include details of an employee's gender history will be destroyed in a secure manner, unless there is a specific reason for retaining them. Where other people in the Council need to be aware of the employee's transition to make a

change to a particular record, the Council will obtain the employee's consent, and restrict the information to those who need to know.

Where there is a need to retain documentation that shows someone's gender history, this information will be stored confidentially in line with the requirements of data protection legislation. The information will be held electronically in a secure environment (for example, password protected) that can be accessed only with the consent of the individual concerned. Only named individuals will be allowed to access this information and those individuals will be made aware that breaches of confidentiality could be unlawful and result in disciplinary action.

Care will be taken to ensure that any search of the Council's records by others will not inadvertently reveal an employee's gender history.

It is an individual's decision whether or not to reveal their gender status and history and the Council will respect their right to privacy. For example, if someone is recruited into a team managed by a transgender employee, they must not be informed about the manager's gender history. The right to privacy will apply regardless of whether or not the individual has a GRC.

Where an employee discloses information about their gender history or status (verbally or in writing), this will be treated as confidential. This includes any information provided to the line manager or HR. Such information will not be shared with others, unless there is a specific reason and then not without the written consent of the individual concerned. Disclosure of the gender history of someone with a GRC without their specific permission would normally be a criminal offence.

Information relating to an employee's gender status or history will not be disclosed to a third party without the individual's written consent, for example when responding to a reference request.

## **Communication**

The Council will work with the employee to agree what information needs to be conveyed to work colleagues and when the information should be conveyed. While the whole workforce may not need to know about the employee's transition, people who work closely with the individual will normally need to know to ensure that a good working relationship is maintained.

The employee may wish to tell colleagues about their transition or may prefer if this is done by someone else on their behalf. The Council will encourage the individual to do what is best for them and, if the employee is not ready to tell anyone at the early stages, the Council will respect the employee's wishes. The employee is entitled to privacy and the Council will seek to protect them from intrusive enquiries.

Where an employee has a public or client-facing role, the Council will discuss with the individual what third parties need to know and how this should be handled.

The Council will be mindful of possible media interest and establish a protocol for handling media interest to ensure that:

- a transgender employee is not left to deal with this; and
- their colleagues understand the importance of not compromising the individual's right to privacy.

## **Bullying and harassment**

The Council adopts a zero-tolerance approach to harassment, bullying or victimisation and such behaviour may result in action being taken under the Council's dignity at work / disciplinary policies.

## **Single-sex toilets and facilities**

The Council will support a transgender employee's right to use the toilets and facilities appropriate to their gender from the point at which the individual declares that they are living their life fully in that gender. In some cases, the individual may wish to use a single-occupancy toilet during their transition, but they must not be pressurised to do so and this should not be seen as a long-term solution. A transgender person should not be expected to use an accessible toilet unless they have a disability.

The Council will agree with the employee when they wish to start using the facilities appropriate to their acquired gender and how this should be communicated to colleagues..

Where possible, the Council will move from providing gender-specific toilets to gender-neutral toilets.

## **Dress codes**

The Council's code of conduct outlines the dress code for employees, however the Council will agree with the employee what flexibility in the Council's dress code may be permitted to accommodate the process of transition or where a gender-specific mode of dress would be uncomfortable for the individual.

If a transgender employee is required to wear a uniform, the Council will ensure that arrangements have been made to provide them with a uniform appropriate to their gender. The uniform will be available from the point at which the individual presents in their new gender status.

## **Training on transgender issues**

Discrimination because of gender reassignment is included in other training as appropriate, for example, induction, recruitment and selection, and training.

## **Supporting an employee who is transitioning**

The Council will be supportive of an employee who has made the decision to transition.

The Council acknowledges that the transition process and the time it takes will be unique to each individual and that it is not always a linear process.

Transitioning is a major decision and the individual may have taken years to come to this point. They may fear rejection or ridicule by their work colleagues. It is therefore vital that the Council supports the individual so that they can continue to work without fear of discrimination and harassment and that colleagues are helped to understand the process.

Once the Council has been made aware by an employee that they will be starting, or have started, the process of transitioning, an appropriate point of contact will be agreed with the employee. That person will work with the employee to develop a confidential plan to manage the individual's transition at work.

The plan will consider what steps to take before, during and after the employee's transition. No action will be taken without the employee's consent.

It is important to develop a plan that is bespoke to the individual employee. Some of the key issues to address are likely to include:

- when and how an individual will present at work in their new gender status;
- handling a request by the employee to change their job temporarily during the transition process or to move to a new role permanently;
- the point at which colleagues, especially any direct reports, will be informed and how this will be done;
- if and how third parties, such as clients, should be informed;
- how absence from work for reasons associated with transitioning (for example, for medical appointments and/or medical treatment) will be handled;
- arrangements for changing the individual's name on their personnel records, email, security badges etc;
- confidentiality; and
- dress codes and/or uniforms.

Transitioning is a process that takes time, and, to help both parties, regular review meetings will be arranged to manage the process. This will ensure that the right support is in place, and enable the plan to be amended as things change. Effective support for someone who is transitioning requires dialogue, agreed action and respect.