
Transgender Policy - Summary Report

Committee considering report:	Personnel Committee date to be confirmed Operations Board on 12 July 2018
Portfolio Member:	Councillor Rick Jones
Date Portfolio Member agreed report:	16 June 2018
Report Author:	Katie Penlington
Forward Plan Ref:	PC3559

1. Purpose of the Report

- 1.1 To seek Personnel Committee's approval of the Transgender Policy. This is a new policy which sets out the Council's approach and commitment to ensuring that transgender people are treated with dignity and are not unlawfully discriminated against or disadvantaged in the workplace.
- 1.2 The Transgender Policy is an important aspect of the Council's commitment to equal opportunities in employment and is designed to be read in conjunction with the Council's existing [Equality in Employment Policy](#).

2. Recommendation

Personnel Committee is recommended to approve the Transgender Policy

3. Implications

- 3.1 **Financial:** None
- 3.2 **Policy:** The Transgender supports the Council's existing Equality in Employment Policy
- 3.3 **Personnel:** The Policy supports the recruitment and retention of employees based on their skills and qualifications and sets out action to be taken to reduce the risk of unlawful discrimination against transgender people. The Policy sets out how employees who are transitioning will be supported.
- 3.4 **Legal:** To support the Council in fulfilling the requirements of the Equality Act 2010.
- 3.5 **Risk Management:** None
- 3.6 **Property:** None
- 3.7 **Other:** None

4. Other options considered

- 4.1 Not to have a separate Transgender Policy and to rely solely on the existing Equality in Employment Policy.

Executive Summary

5. Introduction / Background

- 5.1 The Transgender Policy is a new policy which sets out the Council's commitment to ensuring that transgender people are treated with dignity and are not unlawfully discriminated against or disadvantaged in the workplace.
- 5.2 The Policy is an important aspect of the Council's commitment to equal opportunities in employment and is designed to be read in conjunction with the Council's existing [Equality in Employment Policy](#).
- 5.3 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.
- 5.4 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.
- 5.5 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. Transgender people do not have to apply for a GRC to be protected under the Equality Act.
- 5.6 The Gender Recognition 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.
- 5.7 A separate Transgender Policy is appropriate as transgender equality is very sensitive and the issues around supporting staff who are transitioning are quite complex. In addition to stating how the Council aims to prevent discrimination against transgender people in recruitment, the proposed Transgender Policy sets out how the Council will support employees who are transitioning and the steps it will take to ensure confidentiality is maintained appropriately.

6. Proposal

- 6.1 The Transgender Policy is approved and implemented.

7. Conclusion

- 7.1 Personnel Committee is recommended to approve the Transgender Policy.

8. Appendices

8.1 Appendix A – Equalities Impact Assessment

8.2 Appendix B – Supporting Information

8.3 Appendix C – Transgender Policy

Equality Impact Assessment - Stage One

We need to ensure that our strategies, policies, functions and services, current and proposed have given due regard to equality and diversity as set out in the Public Sector Equality Duty (Section 149 of the Equality Act), which states:

- “(1) A public authority must, in the exercise of its functions, have due regard to the need to:**
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;**
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; This includes the need to:**
 - (i) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;**
 - (ii) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;**
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it, with due regard, in particular, to the need to be aware that compliance with the duties in this section may involve treating some persons more favourably than others.**
- (2) The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.**
- (3) Compliance with the duties in this section may involve treating some persons more favourably than others.”**

The following list of questions may help to establish whether the decision is relevant to equality:

- Does the decision affect service users, employees or the wider community?
- (The relevance of a decision to equality depends not just on the number of those affected but on the significance of the impact on them)
- Is it likely to affect people with particular protected characteristics differently?
- Is it a major policy, or a major change to an existing policy, significantly affecting how functions are delivered?
- Will the decision have a significant impact on how other organisations operate in terms of equality?
- Does the decision relate to functions that engagement has identified as being important to people with particular protected characteristics?
- Does the decision relate to an area with known inequalities?
- Does the decision relate to any equality objectives that have been set by the council?

Please complete the following questions to determine whether a full Stage Two, Equality Impact Assessment is required.

What is the proposed decision that you are asking the Executive to make:		To approve the Transgender Policy.	
Summary of relevant legislation:		The Equality Act 2010 The Gender Recognition Act 2004	
Does the proposed decision conflict with any of the Council's key strategy priorities?		No	
Name of assessor:		Katie Penlington	
Date of assessment:		8 th January 2018	
Is this a:		Is this:	
Policy	Yes	New or proposed	Yes
Strategy	No	Already exists and is being reviewed	No
Function	No	Is changing	No
Service	No		
1 What are the main aims, objectives and intended outcomes of the proposed decision and who is likely to benefit from it?			
Aims:		To seek approval of a new Transgender Policy which sets out the Council's approach to commitment to ensuring that transgender people are treated with dignity and are not unlawfully discriminated against or disadvantaged in the workplace.	
Objectives:		To ensure that the Council recruits employees according to their skills and qualifications and to reduce the risk of unlawful discrimination against transgender people. It is also designed to ensure employees who are transitioning are supported appropriately.	
Outcomes:		The Council recruits the most suitable applicants for vacancies without unlawfully discriminating. Managers and staff understand how to support colleagues who are transitioning.	
Benefits:		The Council is able to recruit and retain the most appropriate employees and to fulfil its obligations under the Equality Act.	
2 Note which groups may be affected by the proposed decision. Consider how they may be affected, whether it is positively or negatively and what sources of information have been used to determine this.			
(Please demonstrate consideration of all strands – Age, Disability, Gender Reassignment, Marriage and Civil Partnership, Pregnancy and Maternity, Race,			

Religion or Belief, Sex and Sexual Orientation.)		
Group Affected	What might be the effect?	Information to support this
Age	The Policy applies equally to all applicants and employees regardless of their age	
Disability	The Policy applies equally to all applicants and employees regardless of whether or not they are disabled.	
Gender Reassignment	The Policy is designed to reduce the risk of unlawful discrimination against transgender people in recruitment and in employment. It aims to support employees who are transitioning.	
Marriage and Civil Partnership	The Policy applies equally to all applicants and employees regardless of whether or not they are married or in a civil partnership.	
Pregnancy and Maternity	The Policy applies equally to all applicants and employees regardless of pregnancy or maternity.	
Race	The Policy applies equally to all applicants and employees regardless of their race.	
Religion or Belief	The Policy applies equally to all applicants and employees regardless of their religion or belief.	
Sex	The Policy applies equally to all applicants and employees regardless of their birth sex or any that they identify with.	
Sexual Orientation	The Policy applies equally to all applicants and employees regardless of	

	their sexual orientation.	
Further Comments relating to the item:		
3 Result		
Are there any aspects of the proposed decision, including how it is delivered or accessed, that could contribute to inequality?	No	
Please provide an explanation for your answer: The Policy applies equally to all applicants and employees.		
Will the proposed decision have an adverse impact upon the lives of people, including employees and service users?	No	
Please provide an explanation for your answer: The Policy applies equally to all applicants and employees.		

If your answers to question 2 have identified potential adverse impacts and you have answered ‘yes’ to either of the sections at question 3, or you are unsure about the impact, then you should carry out a Stage Two Equality Impact Assessment.

If a Stage Two Equality Impact Assessment is required, before proceeding you should discuss the scope of the Assessment with service managers in your area. You will also need to refer to the [Equality Impact Assessment guidance and Stage Two template](#).

4 Identify next steps as appropriate:	
Stage Two required	No
Owner of Stage Two assessment:	
Timescale for Stage Two assessment:	

Name:

Date:

Please now forward this completed form to Rachel Craggs, Principal Policy Officer (Equality and Diversity) (rachel.craggs@westberks.gov.uk), for publication on the WBC website.