



# Transgender POLICY

## Document History

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# EASTERSIDE ACADEMY

## Transgender Policy



The purpose of this policy is to explain Easterside's good practice in the field of Transgender consideration in order to minimise the distress and disruption to all pupils by:

- ❖ Ensuring teaching staff and governors are dealing with Transgender matters inclusively and sensitively.
- ❖ Providing an inclusive environment for any Transgender pupil.
- ❖ Ensuring all pupils are aware of and educated on issues of Transgender.

**At Easterside Academy we recognise that all gender variant children should be supported and protected whether or not they undertake transition.**

### Transgender Identify

A **Transgender** person feels that their external appearance (sex) does not match up with the way they feel internally about their gender identify. A Female to Male (F2M) person will have the external appearance or body of a female and identify their gender as a male; a Male to Female (M2F) person will have the external appearance or body of a male and identify their gender as female.

The word transgender is sometimes used interchangeably with terms such as **transsexual** or **gender-variant** but usually has a narrower meaning and different connotations than gender variant, including non-identification with the gender assigned at birth. Children and students who experience issues with their gender development or are gender non-conforming may or may not be transsexual (see glossary), as some will not retain their gender variance following puberty because this can be fluid. Gender variant people may also use terms such as **non-binary**, **genderqueer** or **genderfluid** to identify themselves and these terms are expanded upon in the glossary.

**Gender Dysphoria** (or Gender Identity Disorder) is a clinical condition that can present from as early as age 2 and can only be diagnosed by a medical and/or psychiatric expert. A person diagnosed with Gender Dysphoria may require treatment e.g. hormone blockers (currently not available in the UK under the age of 16), to ameliorate the symptoms associated with being Transgender. A Transgender person may live their life without being or needing to be diagnosed as having Gender Dysphoria.

Diagnosis and treatment for young people is currently only possible through a specialist team. It must be understood that some people with Gender Dysphoria or those who identify as Non Binary or Gender Variant may not want any treatment. Some may choose to be known by a gender neutral name or to wear different clothes. However, most or all young Trans people

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(and their families) will need some expert support or information as they grow up and develop.

### Legislation

#### **Data Protection Act 1998 (UK)**

Information about a person's Transgender status is considered 'sensitive personal data' and is subject to tighter controls than other personal data. Explicit consent is required before it can be processed.

- ❖ Personal data must be looked after properly following the eight data protection principles, which include ensuring personal data is accurate, secure and processed fairly and lawfully.
- ❖ Failure to change a person's title, name and gender when requested could lead to the following offences under the Act:
  - Disclosure of personal information that is used, held or disclosed unfairly, or without proper security.
  - Failure to ensure personal information is accurate and up-to-date.
  - Processing of data likely to cause distress to the individual.

#### **The Human Rights Act 1998**

The following Articles from the Human Rights Act 1998 support the rights and needs of Transgender people to live their lives in their true gender.

- Article 8: right to respect for private life and family life.
- Article 10: freedom and expression.
- Article 14: the prohibition of discrimination.

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

The Gender Recognition Act 2004 is mainly concerned with the process by which a person can get a Gender Recognition Certificate, and correct their original birth certificate to match their true gender. This can only occur after a person reaches 18 years of age but is something that many younger people may aspire to.

#### **Equality Act 2010 (Great Britain)**

The Equality Act 2010 ensures legal protection against discrimination (direct or indirect), for everyone under the nine protected characteristics defined in the Act, one of which is Gender Reassignment (also known as Transgender).

Part 6 of the Equality Act 2010 makes it clear that the Act specifically refers to School and young people.

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The Equality Act 2010 (2:1:7) states that:

*A person has the protected characteristic of gender reassignment if the person is proposing to undergo, is undergoing or has undergone a process (or part of a process) for the purpose of reassigning the person's sex by changing physiological or other attributes of sex.*

The Act applies to employment, education and a range of other areas where discrimination may take place. In order to be protected under the Act, a pupil will not necessarily have to be undergoing a medical procedure to change their sex, but they must be taking steps to live in the opposite gender, or be proposing to do so.

### **Sex Discrimination (Gender Reassignment) Regulations 1999**

- ❖ Individuals who intend to undergo, are undergoing or have undergone gender reassignment are protected from discrimination in work, school and vocational training (including higher education study).
- ❖ Less favourable treatment relating to absences arising from gender reassignment is unlawful if:
  - The treatment is less favourable than if it had been due to sickness or injury.
  - The treatment is less favourable than if it had been due to some other cause and, having regard to the circumstances of the case, it is reasonable not to be treated less favourably.
- ❖ Less favourable treatment includes the arrangements relating to terms and conditions or arrangements under which employment, education or vocational training is offered.

### **Discrimination**

As stated, The Equality Act 2010 ensures legal protection against discrimination in employment, education, the provision of services and the delivery of public functions, in relation to the nine protected characteristics defined in the Act, one of which is Gender Reassignment.

The legislation states that a school must not discriminate against a pupil because of their Transgender status. Discrimination can be direct or indirect. Indirect discrimination occurs when provision, criterion or practice applies to everyone but puts a person with a particular protected characteristic at a particular disadvantage, and it cannot be justified as a proportionate means of meeting a legitimate aim. An example might be an inflexible school uniform rule which offers no 'unisexual' options such as trousers for girls, and which would therefore create a particular difficulty for a F2M pupil.

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### Confidentiality

**Other pupils should not be informed without permission.**

The Gender Identity Research and Education Society (GIRES), in association with the Home Office, has produced guidance on combating transphobic bullying in schools. The guidance says:

*It is the right of the individuals to choose whether they wish to be open about their gender identity. To 'out' someone, whether staff or pupil, without that person's permission is a form of harassment, and will be treated as such.*

### School Attendance

Easterside Academy will make reasonable adjustments to accommodate absence requests for appointments associated to Transgender treatment etc in line with their absence policy. Sensitive care will be taken when recording the reason for absence.

### Transphobia and Bullying

Easterside Academy has a robust anti-bullying policy. In line with this policy, transphobia incidents will be recorded and dealt with in the same manner as other incidents that are motivated by prejudice, e.g. racist or homophobic incidents. Some of the key messages within our policy include:

- Our anti-bullying policy explicitly includes sexual orientation and gender identity.
- Consistently tackling transphobic remarks.
- Providing diversity training for staff.
- Offering effective support to pupils affected by bullying.

### Training

In order to ensure all staff and governors have the skills to deal with Transgender issues, Easterside Academy holds annual training sessions on topics such as:

- Safe Guarding

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- Confidentiality

Easterside Academy will also seek to provide training on topics such as:

- Gender Identify
- Tackling transphobia
- Relevant legislation

### **The Curriculum**

The issues connected to Transgender will be visited for pupils through the PSHE programme that we offer. These issues may also be touched upon during other subjects.

Our whole school approach includes:

- Using the curriculum to challenge gender stereotypes and develop understanding of transgender issues.
- Covering Transgender issues in training for staff and governors.

### **Physical Education**

Sports and Physical Education is a key aspect of the National Curriculum and the physical and mental well-being of young people. Physical Education develops pupil's competence and confidence to take part in a range of physical activities that become a central part of their lives, both in and out of school. A young Transgender person has the same right to Physical Education as other young people.

With regard to young Transgender people at primary school, there should be reasonably few, if any, issues regarding participation within the sports of their true gender. In secondary, as puberty develops, M2F Transgender participants may have a physical advantage over other girls but this should not present a problem within a carefully and sensitively managed lesson context.

If PE lessons are segregated by gender for any reason, transgender pupils will be allowed to participate in the activity that corresponds to their gender identity, if they wish.

The use of changing room facilities will be carefully considered. Facilities for Transgender participants will be sensitive to their needs and also recognise the needs and sensitivities of other pupils. When competing at another school or outside venue, school staff must ensure there is appropriate sensitive provision available.

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Easterside's PE Kit is unisex.

### **Changing / Toilet Facilities**

The age / phase of the pupil will be taken into consideration when ensuring appropriate and sensitive provision is provided. This will be agreed with school, parents and the child and each individual pupil's needs will be assessed on a case-by-case basis.

There is facility to use a unisex toilet within the school.

### **School Uniform**

Transgender pupils will be expected to follow the School Uniform Policy, which covers uniform and jewellery.

There is a generally broad range of uniform available for both genders (i.e. girls and boys can wear trousers and all pupils wear a white polo shirt and navy blue jumper (or cardigan). The school's PE kit is unisex.

### **Name Changing and Statutory Tests**

If a Transgender pupil wishes to have their preferred name recognised on school systems, this will be supported and will feed on to letters sent home, school reports, pupil's books and name labels (e.g. on tray / peg). Furthermore, the change of name and associated gender identity will be respected and accommodated by the school. It is a real indicator that the Transgender pupil is taking steps to, or proposing to move towards a gender they feel they wish to live in.

A pupil's record on the school's management and information system can be changed to reflect his or her preferred name. However the gender recorded has to remain as it was when the pupil was assigned his or her Unique Pupil Number (UPN), unless the pupil's birth certificate or legal gender is changed via a Gender Recognition Certificate.

Guidance explains that a pupil's original name and gender will have to be recorded for exam entries and certificates, unless the pupil has legally changed his or her name, for example by deed poll. Once an exam result is accredited it will be linked with a UPN which existed in the school census information. UPNs are only linked with legal names, not preferred names. Within a Primary School setting examination certificates are not issued but if

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at secondary it is possible for examination certificates to be issued in the preferred name.

Schools need to be aware that the DfE analysis of school performance data may still present the pupil in the gender registered by their UPN.

It is possible for any document to be changed to reflect the chosen name of the young person. Changing the gender recorded on a birth certificate is not however possible until a Gender Recognition Certificate has been issued. In order to change a name on other official documents such as passport, it might be necessary for evidence of change of name to be produced: there are two main ways in which this can be done, by deed poll and by statutory declaration. The Citizens Advice Bureau and other Transgender support organisations will have more information on this subject. A person under 16 years of age cannot change their name legally without the consent of a parent.

### **School Visits**

Taking part in activities off site may lead to overnight stays e.g. Carlton Outdoor Education Centre; Compass Adventure on school site camping. Issues may arise for both young Transgender pupils and other pupils but this must not mean Transgender pupils cannot be included on the visit or activity. Easterside Academy will give consideration well in advance of any additional needs which may include having a parent or member of staff accompanying the visit to ensure the Transgender pupil is fully included.

The sleeping arrangements will be considered before a visit is undertaken; it is possible that a Transgender pupil would prefer to have a separate room etc. Each individual case and visit needs to be considered separately and in depth discussions will happen well in advance, with all appropriate bodies, linked to the accommodation available.

### **Dealing with Objection from Other Parents**

Page 19 of the GIRES guidance relays advice on dealing with parents who object to a transgender pupil attending the school. It recommends that school inform parents *“that the child, like any other, has the right to remain at the school and to be kept safe and happy.”* The guidance explains that parents that fail to accept the school’s policy would be free to withdraw their children.



### GLOSSARY OF TERMS

**Binding** – a F2M pupil that is developing breasts may strap down their chest so that it is less obvious. This can be hot, uncomfortable and restrictive but very important to their psychological and emotional wellbeing. It might make certain PE lessons difficult for them to participate in and could sometimes lead to breathing difficulties, skeletal problems and fainting.

**F2M** – Female to Male, a person that was identified as Female at birth but came to feel that their true gender is actually Male.

**Gender** – the way that a person feels about themselves in relation to their physical and mental self; the basis of their identifying as male, or female, or neither, or either, or both.

**Gender Dysphoria** – the medical condition that describes the symptoms of being Transgender.

**Gender Identity Disorder** - GID is a medical term describing Transgender, this tends not to be used owing to the subtext around the word 'disorder'.

**Gender Recognition Certificate** – an official document presented by a Gender Recognition Panel that enables all official documents and records (including birth certificate) to be amended to the true gender of the individual thereby providing full legal recognition.

**Gender Role** – the social role/interaction with others, which gives expression to the inner gender identity and reinforces it.

**M2F** – Male to Female, a person that was identified as Male at birth but came to feel that their true gender is actually Female.

**Packing** – a F2M person may wear a prosthetic item in their pants that will give a 'bulge' in their trousers so that they appear more male.

**Sex** – the way a person's body appears, sometimes wrongly, to indicate their gender.

**Transgender** – a person that feels the assigned gender and sex at birth conflicts with their true gender.

**Transsexual** – a Transgender person who lives fulltime in their true gender.

**True Gender** – the gender that a person truly feels they are inside.

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### **Further Information and Guidance**

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

<http://www.legislation.gov.uk/ukpga/2010/15/contents>

#### **The Equality Act 2010 and Schools – Departmental advice for school leaders, school staff, governing bodies and local authorities (May 2014)**

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/315587/Equality\\_Act\\_Advice\\_Final.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/315587/Equality_Act_Advice_Final.pdf)

#### **Cornwall Schools Transgender Guidance**

[http://www.intercomtrust.org.uk/resources/cornwall\\_schools\\_transgender\\_guidance.pdf](http://www.intercomtrust.org.uk/resources/cornwall_schools_transgender_guidance.pdf)

#### **Guidance on Combating Transphobic Bullying in School, GIRES**

<http://www.gires.org.uk/assets/Schools/TransphobicBullying-print.pdf>

#### **Trans\*Inclusion Schools Toolkit – Brighton & Hove City Council**

<http://www.allsortsyouth.org.uk/wp-content/uploads/2014/02/Trans-Inclusion-Schools-Toolkit.pdf>