



Equality for Trans Teachers

Introduction

The NASUWT believes that all pupils/students and staff in schools and colleges have a right to learn and work in a safe and secure environment where they are treated with dignity and feel valued and respected.

This guidance aims to provide an overview of the law and to support employers of teachers to ensure their workplaces are trans-inclusive.

‘Trans’ is a term which identifies the spectrum of people who feel that the sex they were assigned at birth does not match with, or conform to, their own sense of who they are.

Many trans people wish to change their name and personal details and live as a member of the gender with which they identify. This may, although by no means always, involve hormone therapy and surgery. The process is referred to as ‘gender reassignment’ or ‘transitioning’.

It is important to recognise that it may not always be known when a trans person is working in a particular workplace. If someone transitions whilst on the staff then it will be known.

There could be people who know they are trans but have not come out, others who are questioning their gender, or people who transitioned some time ago and are not known. Being aware of this is also extremely important to ensure inclusion.

Legislation provides the minimum standard that should be expected in terms of equality. It is good practice for employers to focus not just on legal requirements but also the wider wellbeing of staff and how they can ensure a fully inclusive workplace.

The Law

Northern Ireland Equality Legislation

The Sex Discrimination (Gender Reassignment) Regulations (Northern Ireland) 1999 prohibit direct discrimination, harassment and victimisation on the grounds of gender reassignment in the fields of employment and vocational training (including higher education), access to goods, facilities and services and disposal or management of premises.

Staff are protected from unfair treatment in recruitment and during all aspects of employment.

Gender assignment is defined as ‘a process which is undertaken under medical supervision for the purpose of reassigning a person’s sex by changing physiological or other characteristics of sex and includes any part of such a process.’ This means that an individual does not need to have undergone any specific treatment or surgery to be covered by the law.

Section 75 of the Northern Ireland Act 1998 states that the protected characteristic of gender reassignment is subject to the duty to have due regard to the need to promote equality of opportunity between men and women. This entails more than the elimination of discrimination and requires proactive measures to be taken to ensure equality for trans people in policies and decision-making.

The Human Rights Act 1988

This provides additional protection against unnecessary intrusion by the State into private and family life.

It includes personal dignity, the interaction a person has with others, both in private and in public, and respect for confidential information, particularly regarding the storage and sharing of such information.

The Data Protection Act 1998

Under this Act, data relating to the protected characteristic of gender reassignment is regarded as 'sensitive information' and should not be released without an individual's permission.

The Gender Recognition Act 2004

This enables a person, aged 18 or over, to change their legal gender to have the gender status, for all purposes, which aligns with their gender identity rather than their birth-assigned sex.

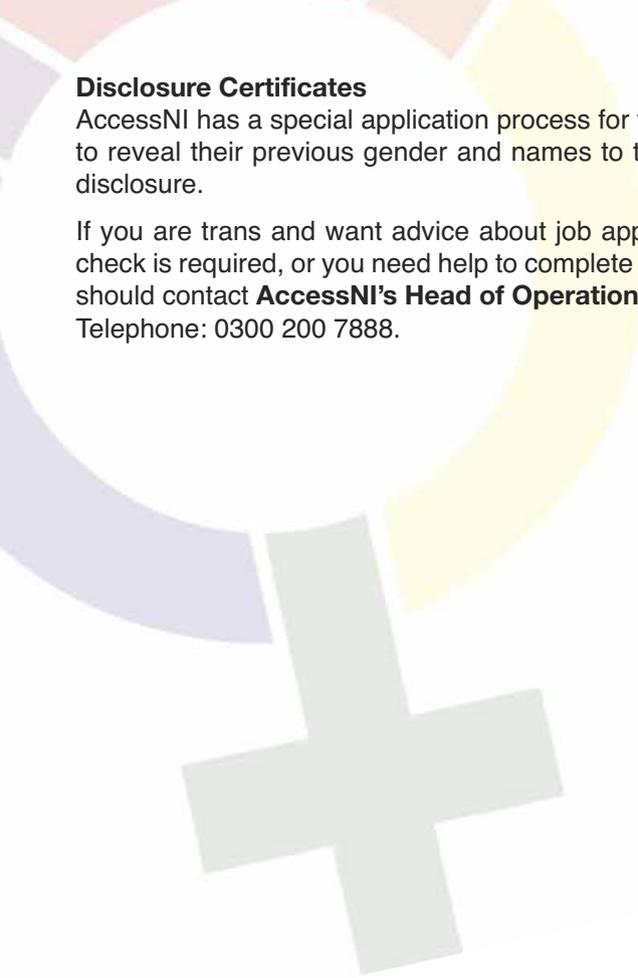
The Act gives trans people the right to obtain a new birth certificate. A Gender Recognition Certificate (GRC) can only be obtained after two years in the 'new' role.

Whether or not a person has a GRC should have no bearing on employment or employment protections, apart from adding an extra layer of privacy.

Employers should treat people in accordance with their gender identity, regardless of whether or not they have a GRC, and should not ask trans staff if they have one.

The Act also includes very important measures to protect the privacy of a trans person. It makes it a criminal offence for a person who has acquired protected information in an official capacity, such as through a recruitment process, to disclose that information to any other person. The offence does not apply if the individual has given their permission for the disclosure of such information.

Not all trans people apply for a GRC. It is purely a personal decision and the process of obtaining a GRC is not easily accessible to all trans people.



Disclosure Certificates

AccessNI has a special application process for trans people who do not want to reveal their previous gender and names to the organisation requiring the disclosure.

If you are trans and want advice about job applications where an AccessNI check is required, or you need help to complete the AccessNI application, you should contact **AccessNI's Head of Operations and Business Services**.
Telephone: 0300 200 7888.

Issues for people transitioning in the workplace

The person undergoing transition should be at the core of any decision-making process in the workplace and should feel in control throughout the process. Managers should consult with the trans person regarding the nature and frequency of the support to be provided during and after the transition process.

Issues to be considered include:

- **Dates and timescales** – when key changes will be taking place and how they fit into any relevant work patterns and deadlines. Any changes will depend on the individual, but could include name, documentation and physical changes.
- **Records and systems** – consideration should be given to what needs to be changed, when this will happen and what will happen to ‘previous’ records. These could include photographs and biographies on websites and newsletters and also historical information on personal records. References to the trans person’s previous name should be removed wherever possible.

Breaches of confidentiality are treated in the same manner as disclosure of the highly personal details of any other employee protected under the Data Protection Act 1998.

- **Communication** – how and when the individual wishes to inform other staff, governors, students and parents. This is an individual choice; what works for one person may not work for another. Any announcements should, however, include important issues such as how to address the trans person (new name, correct pronoun), how to support them and how to deal with questions from others without breaching confidentiality.

- **Time off for medical appointments and treatment** – if a person is undergoing gender reassignment, they are protected by sex discrimination law. This also applies to someone who has undergone gender reassignment in the past or is planning to undergo the process.

It is good practice to discuss as far in advance as possible what time off a transitioning member of staff may require for any medical or surgical procedures. In these circumstances you should ensure that you do not treat the employee less favourably, as they are entitled to the same sickness absence and pay as other employees in the organisation.

- **Use of toilets and changing facilities** – staff who have declared their trans status should be free to use the facilities appropriate to their self-identified gender.
- **Agreeing any dress code requirements** – where an employer has a dress code, it is good practice for this to have the flexibility to accommodate the process of transition from one gender role to another. Best practice is that dress codes are not gendered at all, but simply a list of clothes it is acceptable for staff to wear.
- **A contingency plan for dealing with media enquiries** – Anyone taking incoming calls must be more alert than usual to the possibility that the Press, in particular, are likely to invite comment if the news of a member of staff's transition has leaked out. It is advisable to prepare a generic statement, which can then be made public if necessary and appropriate. This should state that the employer supports fully all members of its community, especially those with any of the protected characteristics, and it is paramount that everyone is treated with respect and that the right to privacy, in law, is respected. Any statement, and its use, should be agreed by all parties involved.

- **Raising awareness** – employers have a responsibility to inform their staff about trans issues and the implications for working practices. This is a valuable way of overcoming prejudice and securing an inclusive environment for trans people.

Sources of Support and Information

In addition to the NASUWT, the following are a selection of sources of support and information.

Education Support Partnership

A confidential UK-wide telephone counselling, support and advice service for teachers. Tel: 08000 562 561.

Equality Commission for Northern Ireland

The public body has produced guidance for employers and employees on 'Transgender Discrimination'. www.equalityni.org

Gendered Intelligence

Gendered Intelligence is a community interest company which works with the trans community and all those who impact on trans lives – employers, educators and service providers of all kinds; they provide training, consultancy, youth workshops, mentoring and youth groups amongst other services.

www.genderedintelligence.co.uk

GIRES

GIRES is a volunteer-operated membership charity that, in collaboration with the other groups in its field, hears, helps, empowers and gives a voice to trans and gender non-conforming individuals, including those who are non-binary and non-gender, as well as their families. www.gires.org.uk

TransgenderNI

TransgenderNI is the hub of information for trans, non-binary, questioning and intersex people and those who support them across Northern Ireland. Funded by the Public Health Agency, the website has been developed by trans support organisations and members of the trans community. www.transgenderni.com

The Focus Trust

Focus is a voluntary trust which runs peer support groups for trans and intersex individuals and their families. The Trust also provides tailored trans awareness training. www.thefocustrust.com

Translate (Youth Group)

Translate is a safe place for young people up to the age of 25 to come together to discuss issues of gender and identity. translate@transgenderni.com

SAIL (Support, Acceptance, Information and Learning)

SAIL is a voluntary support group for family, friends, carers and individuals living with gender issues. sail@transgenderni.com or tel: 07510 228411 (confidential helpline/textline).

Belfast Butterfly Club

The Club aims to provide a sympathetic ear to help others to come to terms with being trans and to help their friends and family as well as the wider community understand what being trans means. trans@belfastbutterflyclub.co.uk

Government Equalities Office

The Government Equalities Office has produced comprehensive guidance for employers on 'The recruitment and retention of transgender staff'. www.gov.uk



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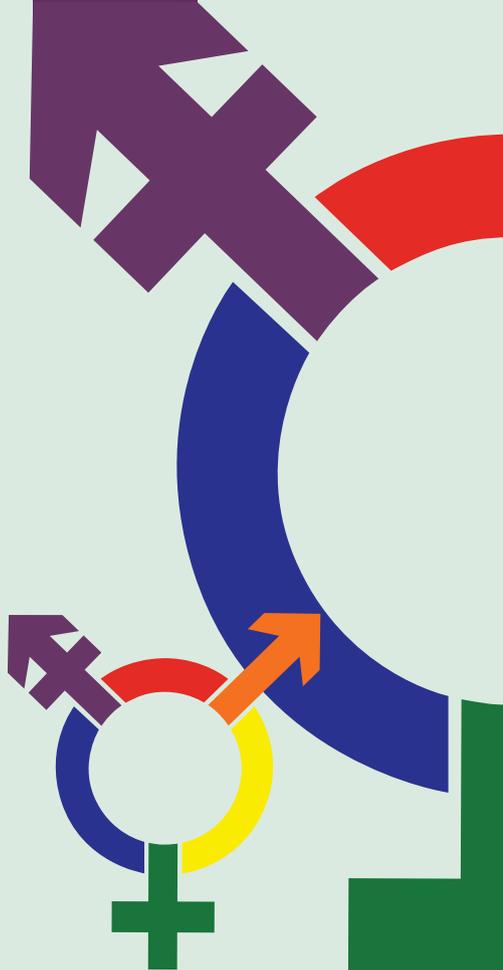
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