



TRANSITIONING AT WORK GUIDANCE

About

This guidance outlines Essex County Fire and Rescue Service (“the Service”) commitment to ensuring that transgender and non-binary employees are treated with dignity and respect and are not disadvantaged in the workplace.

The guidance sets out the steps the Service takes to welcome and support transgender and non-binary employees and prevent discrimination.

Index	Page
1 SCOPE	2
2 OUR COMMITMENT	2
3 DEFINITIONS	2
4 THE LAW	4
4.1 The Equality Act 2010.	4
4.5 The Gender Recognition Act 2004	4
4.8 Genuine Occupational Qualifications (GOQ).	5
5 PROCEDURE DETAILS	6
5.3 RECRUITMENT:-	6
5.4 MONITORING:-	7
6 TRANSITIONING EMPLOYEES	8
7 SUPPORTING AND EMPLOYEE WHO IS TRANSITIONING ...	10
8 CHANGING EMPLOYEE RECORDS	12
9 CONFIDENTIALITY	12
10 COMMUNICATION	13
11 BULLYING & HARASSMENT	14
12 TRAINING ON TRANSGENDER ISSUES	14
13 LINKS TO OTHER POLICIES	16
14 Document History	16
Audit Trail	16

1 **SCOPE**

- 1.1 The guidance covers all Essex Police, Fire and Crime Commissioner Fire and Rescue Authority (“the Authority”) employees (whether full time or part-time, fixed term, volunteer, or Cadet), contractors, seconded, temporary workers and job applicants and applies to all stages of the employment relationship.
- 1.2 The guidance accompanies the Authority's Equality & Diversity Policy and Dignity at Work Policy.
- 1.3 The guidance provides support and direction for the individual that will ensure fairness, dignity confidentiality and respect of transgender staff.
- 1.4 Failure to take account of this guidance may result in disciplinary action being taken against an employee.

2 **OUR COMMITMENT**

- 2.1 The Authority believes that diversity and inclusion bring benefits to the Service and that people work at their best when they can be themselves.
- 2.2 The Service is committed to welcoming and supporting transgender and non-binary employees. This commitment means cultivating and providing a working environment where transgender and non-binary employees are respected and valued, that removes barriers to recruitment, promotion and retention, and is free from gender identity based discrimination, harassment or victimisation.

3 **DEFINITIONS**

- 3.1 Definitions and terminology regarding transgender and non-binary people are evolving. **Appendix A** to this guidance provides guidance on some of the most commonly used terms. 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.
- 3.2 Using inappropriate language and terminology can cause offence and distress and undermines the Service's efforts to create an inclusive workplace for transgender and non-binary people.

Transitioning At Work Guidance

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

4 THE LAW

- 4.1 The Equality Act 2010** states that it is unlawful for an employer to discriminate against any employee, job applicant or contractor on the grounds of that person's sex, or gender reassignment.
- 4.2** Gender reassignment is one of the nine protected characteristics covered by the Act which also 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.
- 4.3** 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.
- 4.4** An employee who treats a colleague less favourably because of gender reassignment, for example by refusing to work for or with them, may be held personally liable for discrimination.
- 4.5 The Gender Recognition Act 2004** allows transgender 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.
- 4.6** 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.

Transitioning At Work Guidance

- 4.7** 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.
- 4.8** **Genuine Occupational Qualifications (GOQ)** exists when the specific nature of a job, or duties attached to it, require it to be undertaken by a member of one sex. The sex discrimination provisions within the Equality Act 2010, in very limited circumstances, makes discrimination lawful in, for example, recruitment, training, promotion and transfer in a job where a GOQ is applicable.
- 4.9** The Sex Discrimination provisions allows for two kinds of GOQ:
1. On the basis of sex (the job requires either a man or a woman)
 2. On the basis of transition (where an individual is intending to undergo, is undergoing or has undergone gender reassignment but has not obtained a GRC).
- 4.10** It would be lawful to discriminate against a trans man if it would also be lawful to discriminate against a man (e.g. restricting a job involving intimate care of a woman to women applicants).
- 4.11** Using the example above, if an employee working under a GOQ with their birth gender is awarded their Gender Recognition Certificate (GRC), the Service may give consideration to transfer them to an alternative role on the grounds that they no longer have the required gender of the Genuine Occupational Qualification.
- 4.12** Currently, wider gender identities, including non-binary, are not recognised under the Equality Act, however people will be supported whilst working in the Service and are protected through internal policy including Dignity at Work, Code of Conduct and Equality and Diversity Policy.

5 PROCEDURE DETAILS

- 5.1 The Service recognises that transgender and non-binary job applicants and employees are not required to inform the Service of their gender status or gender history. The gender in which an individual chooses to present will always be acknowledged and respected.
- 5.2 To promote a workplace that is inclusive of transgender and non-binary people, the Service adopts the following approach.
- 5.3 **RECRUITMENT:-**

The Service wishes to attract applicants from as wide a talent pool as possible and the recruitment process is designed to be inclusive of transgender and non-binary applicants. A job applicant's gender identity is irrelevant. In an exceptional circumstance where the nature of a specific role might lawfully prevent someone who is transitioning from applying, legal advice must always be sought in advance of advertising.

Job advertisements should make clear that opportunities are open to all suitably qualified applicants. If this statement makes explicit reference to not discriminating on particular grounds, those grounds should include gender reassignment. Where an application form is used, this should not include a question about previous names.

There is no obligation for an individual to disclose their gender history as a condition of employment. If the person chooses to disclose this information, Managers should 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 Service supports transgender and non-binary 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. It is unlawful to use this information as a reason for not offering them the post.

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 Service 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

Transitioning At Work Guidance

before a job offer is confirmed and the certificates are in the applicant's previous name.

5.4 MONITORING:-

In line with the Service's policy on equal opportunities in employment, the Authority will monitor the gender identity and trans status of the existing workforce and of applicants for jobs (including promotion) and will review its equal opportunities policy in accordance with the results shown by the monitoring. If changes are required, the Service will implement them.

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.

'Outing' a person as trans is classed as direct discrimination under the Equality Act 2010 and could result in criminal charges under the Gender Recognition Act 2004 and Data Protection Act 1998.

Disclosure of the fact that an employee has obtained a gender recognition certificate is also a criminal act subject to a fine.

6 TRANSITIONING EMPLOYEES

- 6.1** A discussion should be held with either the direct line manager or HR, led by the transitioning individual, to consider and include the following areas:
- Is there a need for a risk assessment? for example if the individual is undergoing surgery and may need a workplace adjustment on a temporary basis.
 - What is the expected point of change of personal details (such as name) and transition at work (collaboratively agreed between the individual and manager and a timeline developed)?
 - What amendments will be required to records and systems?
 - If at all, when and how should others be communicated with?
 - How may colleagues be assisted with their understanding of and appropriate response to the issues?
 - Is there a need for the OH referral to assist with providing medical and other advice and support?
 - Is there a need for revised duties and uniform change?
 - Reassurance of confidentiality of personal information
- 6.2** The agreement of support should be reviewed at least every 3 months, but should also be reassessed at each significant stage of the process. The line manager will agree review dates with the individual.
- 6.3** An employee who is transitioning may wish to be redeployed on a temporary 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 Service will seek to accommodate the employee's wishes.
- 6.4** A manager should not put pressure on an individual to change jobs or make assumptions about their capability or wishes.
- 6.5** 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 Service will treat such information as sensitive data and it will be handled in line with the requirements of data protection legislation.

Transitioning At Work Guidance

- 6.6** Where pension and insurance providers request disclosure of an individual's gender status, the Service 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.
- 6.7** The Service will take all necessary steps to ensure that an individual's change of name is respected. The Service is aware that a failure to change pronouns and names on records in respect of a transgender employee could constitute direct discrimination.
- 6.8** A GRC is not required to enable a transgender person to change their name and the Service will never ask an individual if they have a GRC to verify a name change, as to ask such a question would be inappropriate.
- 6.9** 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.
- 6.10** Part of the transitioning at work process will be to agree at which point the individual changes their use of changing rooms and toilets. It is not acceptable for a trans person to use separate facilities, e.g., an accessible toilet for disabled people, although this might be a short-term option during the early stages of transitioning as long as the individual is happy with the situation. An appropriate time for using the facilities of the affirmed gender is likely to be when the employee has begun transitioning at work.
- 6.11** Other staff may express concerns but this does not justify, in law, discriminatory treatment. Discriminatory questions will not be tolerated, and intrusive questions should not be directed at the individual. Trans employees are entitled to expect support from their employer but should not be held responsible for explaining to their colleagues their own identity unless they feel comfortable to do so.
- 6.12** A trans employee should be granted access to 'men only, or 'women only' areas according to their affirmed gender identity. Failure to allow this is a breach of the Equality Act 2010.

7 SUPPORTING AN EMPLOYEE WHO IS TRANSITIONING

- 7.1** The Service will be supportive of an employee who has made the decision to transition
- 7.2** The Service 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.
- 7.3** 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 Service 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.
- 7.4** Once the Service 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 **action plan (appendix c)** to manage the individual's transition at work.
- 7.5** 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.
- 7.6** 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.
- 7.7** 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;
 - 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;

Transitioning At Work Guidance

- 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;
- dress codes and uniforms; and
- providing information about the range of resources and support available including online options and face to face counselling, details of how to access these are on the OH intranet page.

7.8 A new uniform will need to be issued if worn. Although the individual will be expected to conform to presenting a professional image, flexibility in procedure may be agreed during the transitioning period. The Line Manager will discuss with the individual the arrangements for the issue of the new uniform, and its collection.

8 CHANGING EMPLOYEE RECORDS

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

9 CONFIDENTIALITY

- 9.1** 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 Service need to be aware of the employee's transition to make a change to a particular record, the Service will obtain the employee's consent, and restrict the information to those who need to know.
- 9.2** 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.
- 9.3** Care will be taken to ensure that any search of the Service's records by others will not inadvertently reveal an employee's gender history.
- 9.4** It is an individual's decision whether or not to reveal their gender status and history and the Service 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.

Transitioning At Work Guidance

- 9.5** 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 explicit consent or permission would normally be a criminal offence.
- 9.6** Information relating to an employee's gender status or history will not be disclosed to a third party without the individual's explicit consent, for example when responding to a reference request.
- 9.7** Personal records of trans staff should not refer to a previous name, any records made before a change of name should be updated.

10 COMMUNICATION

- 10.1** The Service 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.
- 10.2** The employee may wish to tell colleagues about their transition or may prefer if this is done by someone else on their behalf. The Service 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 Service will respect the employee's wishes.
- 10.3** The employee is entitled to privacy and the Service will seek to protect them from intrusive enquiries.
- 10.4** Where an employee has a public or client-facing role, the Service will discuss with the individual what third parties need to know and how this should be handled.
- 10.5** The Service 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.

11 BULLYING & HARASSMENT

11.1 The Service adopts a zero-tolerance approach to harassment, bullying or victimisation and such behaviour may result in action being taken under the Service's disciplinary procedure.

11.2 Examples of harassment against transgender people include:

- verbal abuse such as name-calling, threats, derogatory remarks or belittling comments about transgender people;
- asking an individual if they have a GRC;
- jokes and banter about someone's gender identity or transgender people generally;
- refusing to use the pronoun appropriate to someone's acquired gender (for example, calling a trans woman "he") or calling the person by the name they had before they transitioned;
- threatening behaviour or physical abuse;
- intrusive questioning about someone's gender identity or transition;
- excluding a transgender colleague from conversations or from social events;
- refusing to work with someone because they have transitioned; and
- displaying or circulating transphobic images and literature.

11.3 All employees are made aware of the Service's Dignity at Work Policy and the procedures in place for handling complaints of bullying and harassment. The Service will also publicise its position on bullying and harassment to any third parties with which it engages.

11.4 Any complaints of bullying and harassment are taken seriously and dealt with promptly.

12 TRAINING ON TRANSGENDER ISSUES

12.1 Information on transgender issues is an integral part of the Service's dignity at work briefings. The aim is to help our employees to understand what is and is not acceptable behaviour and to differentiate myth from reality, thereby minimising the potential for conflict arising from misunderstandings.

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

13 How to be a Trans Ally:

- 13.1 **Educate yourself and listen** - Take the time to learn about trans issues. Complete the Equality, Diversity and Inclusivity E-Learning Module. Get involved in the some of the events and training sessions hosted by the LGBTQ+ Staff Network called BEING.
- 13.2 **Stand Up** - Understand what trans-specific bullying and harassment looks like and call out inappropriate behaviour when you see it.
- 13.3 **Keep it confidential** - It takes a lot for someone to tell you they are trans or non-binary. Respect that by keeping what they tell you secret. Remember they might be out in some groups but not all.
- 13.4 **Pronouns matter** -Introduce yourself, using your affirmed pronoun. Use the person's affirmed name and pronouns. If you are not sure what pronouns to use, just ask politely and privately. As long as you do it with the best intentions, people will not mind. If you get it wrong, apologise, correct yourself and move on. Add your own pronouns to your email signature and social media profiles. (She/Her, He/Him, They/Them)
- 13.5 **Don't make assumptions** - Everyone is different. Don't make any assumptions about a trans person's medical history, romantic relationships, or feelings about their own life.
- 13.6 **Keep it appropriate** - Ask appropriate questions. Be guided by the individual going through a transition process.

13 14LINKS TO OTHER POLICIES

- Dignity at Work Policy
- Equality and Diversity Policy
- Equality and Diversity Guidance
- Grievance Procedure
- Disciplinary Procedure
- Whistleblowing
- Data Protection Act 1998
- General Data Protection Regulations 2016
- Equality Act 2010
- Gender Recognition Act (GRA) 2004
- Fire Brigades Union – All Different, All Equal
- UNISON – Transgender Equality Guidance and Model Employer Policy
- ACAS Gender reassignment in the workplace guidance
- [FRSA Equality and Fairness Policy](#)

If you would like to speak to someone about this guidance please call the HR Support Team on 01376 576199 or email HR-Support.

14 15 Document History

Audit Trail

Page/p ara nos.	Brief description of change	Issue Date	Version Control
Whole document	New policy development in line with Service values and commitment to diversity and equality.	09 May 2022	Version 1.0