

GUIDANCE AND PROCEDURE SUMMARY

Please note: This is a summary of the Force's full guidance & procedure on Transgender & Gender Reassignment. A full copy can be obtained via a Freedom of Information request.

| TRANSGENDER & GENDER REASSIGNMENT | | | |
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| Practice / Business Area: | Diversity | | |
| Department Responsible: | Human Resources | | |
| First Published: | 13/09/18 | | |
| Last Reviewed: | 13/09/18 | | |
| Next review date: | September 2021 | This document applies to employees of the: | |
| Version Number: | 01 (summarised) | Chief Constable | Commissioner |
| SOUTH WALES POLICE PROCEDURE OBJECTIVE: | | | |
| To provide support to any member of South Wales Police who make known they wish to transition from their birth gender to the opposite gender during their employment with South Wales Police (for the purposes of this document all officers and staff shall be referred to as staff). | | | |
| GENERIC RISK ASSESSMENT: | | | |
| No H&S risk assessment required. | | | |
| PROCEDURE: | | | |
| All staff must comply with the Equality Act 2010 that consolidates all previous equality legislation and makes it unlawful to discriminate against any person because of disability. | | | |
| 1. Gender Reassignment Process and Support | | | |
| In terms of time required to undergo surgery this will depend on the type of surgery being undertaken. There is no specific minimum and maximum time employers should allow a person undergoing medical and/or surgical treatment, however the Force will show flexibility in the same way as another undergoing any other serious operation. | | | |
| 2. Long Term Sickness | | | |
| If complications arise as a result of the medical treatment which then leads to long term absences with any other long term illness the individual will be supported and monitored through the case review procedures contained in the Sickness Absence Policy. | | | |
| 3. Role Exemptions (which apply during gender reassignment) There is limited provision in the Equality Act 2010 to exempt posts where individuals have to share accommodation and it is not reasonable on privacy or decency grounds for an individual to do so with either gender while in the process of undergoing gender reassignment. | | | |
| Where an individual already working in a post requiring him or her to share accommodation commences gender reassignment, an employer should attempt, where possible, to take reasonable steps in dealing with such circumstances. This could include, for example, redeployment or temporary replacement of the individual while undergoing gender reassignment. Redeployment or temporary reassignment should be the last possible option when all other options have been exhausted. | | | |
| It is also not unlawful for an employer to make special arrangements where a post requires the holder to provide vulnerable individuals with personal services promoting their | | | |

welfare, or similar personal circumstances, and in the reasonable view of the employer, those services cannot be adequately provided by a person whilst undergoing gender reassignment. It is anticipated that this exemption will apply in very rare circumstances. It should not be assumed that vulnerable people automatically include children, patients undergoing medical treatment, elderly people, mentally ill people or any other group. The onus is on the employer not only to show that a particular individual or individuals are vulnerable but also to show that he or she acted reasonably in concluding that the personal welfare services in question could not be effectively carried out by a person undergoing gender reassignment. For example if one of the duties involves intimate searches, that part of their duty could be covered during the time of their gender reassignment by another employee.

Whilst it is unlikely that roles within the police service will fall under the categories outlined above, the individual themselves may feel more comfortable being temporarily redeployed during the initial phase of the gender reassignment, if they work in a role that has a large amount of face to face contact with the public. This issue should be discussed in detail with the individual to ensure that they are provided with the maximum support without being victimised by being forcefully removed from their usual role.

4 Process

The Force needs to support a staff member's transition from one gender to the other whilst managing the organisations responsibilities. Therefore, it is essential to ascertain the detailed views of how the individual wishes the process to be handled.

In agreeing the process, BCU/Departmental managers will be involved. Anonymity of the individual undergoing gender reassignment may be required to ensure confidentiality at all times. Negotiations will be able to identify any potential areas of conflict. These should be well documented by the line manager or BCU/Departmental HR Business Partner. Nothing should be done without the consent or knowledge of the individual.

An agreement template for any staff member going through gender transition is hyperlinked to this document. This document is designed to support staff that intend to undergo, are undergoing or have undergone gender reassignment. It is intended to be used as an agreement between the relevant parties to meet the specific needs of the individual's role and special requirements during and following transition.

5. Change in Social Gender

An individual, who has indicated their intention to undergo gender reassignment, will at some point change over to their new gender. Their name and other records may need to be formally changed. The individual will decide when to adopt a form of dress and use single gender facilities in accordance with their new gender. This change in social gender will usually take place during or after hormone therapy but this can take place years before the final surgical procedure. The surgical procedure may not take place for some at all. There will need to be discussion with the individual and other members of staff in the immediate workplace.

6. Dress Code

To accommodate the process of transition from one gender to another, flexibility will need to be shown in respect of the Dress Code. However, there will still be a requirement for the individual to wear appropriate clothing suitable to the professional policing environment.

7. Use of Single Gender Facilities

Gender reassignment will necessitate negotiation and agreement as to what point the individual will use facilities such as changing rooms and toilets in the change from one

gender to another. An agreement should be made between the individual and line manager after which a transgender member of staff should then be granted access to the appropriate areas according to their new gender. It is not acceptable to insist for the long term that a transgender member of staff using separate facilities e.g. using a disabled toilet although this could be a short term measure while the individual is going through the early stages of reassignment provided the individual is happy with this arrangement.

8. Informing Colleagues, Customers and the Public

There is no obligation or need to inform colleagues, customers or the public that a new member of staff is transgender or a member of staff is undergoing gender reassignment except where the relationship with that individual prior to their change of gender is to continue.

A transgender person has to live in their role for 2 years prior to being able to apply and receive a change of gender on their birth certificate. For operational reasons in terms of deployment for officers changing the gender in which they present themselves, the BCU Commander will need to be informed until certification is received. However if the transgender member of staff has changed their birth certificate prior to joining the Force there is no obligation for the individual to make a disclosure or for the individual to be treated any differently from others of the same gender i.e. their acquired gender.

It is good practice for the member of staff to take responsibility for informing those who need to know, although the individual should be assisted as to how they wish this to be done. In some circumstances the transgender person may wish to be the one to make a personal explanation to some or all of the colleagues they work regularly with. In this case the BCU / Departmental line manager (if they are already aware of the situation), will need to know when the disclosure is to take place and the depth of the disclosure, so they can agree and provide appropriate support to all involved., perhaps by way of educating them regarding the condition and process of reassignment.

South Wales Police will ensure that all staff involved will be provided with information about transsexualism to enable them to understand and support the member of staff undergoing gender reassignment.

It is a common misconception about people who identify as transgender is that they must by default be lesbian, gay or bisexual (LGB). This is not true although there are shared experiences and history between the groups. Being transgender is a matter of gender identity, not sexual orientation, and trans people will be heterosexual as well as lesbian, bisexual and gay.

At the point of social gender change it is common for a transgender person to take a short period of time off work and to return in their new name and acquired gender. This is the decision of the individual undergoing gender reassignment and would be expected to be taken from annual leave entitlement or flexi leave whichever is preferable to the individual.

Individuals commencing paid work or in a voluntary capacity that have already gone through the point of change in social gender have no obligation to inform anyone of their transgender. However it may be necessary to disclose former names in order to carry out security and medical checks. Managers within the organisation do not need to be informed of an individual's transgender status. In the event that an individual's transgender status becomes known unintentionally the relevant line manager, and HR Business Partner and Occupational Health team, will support the individual in dealing with this disclosure and ensure members of staff are provided with information regarding transsexualism to enable them to understand the sensitivities.

9. Maintenance of Confidentiality

Any deliberate or inappropriate release of confidential information leading to a transgender member of staff or recruit being 'outed' against their stated wish, whether internally or externally, will be treated as a matter of gross misconduct and investigated using the appropriate misconduct procedures.

10. Individual Roles & Responsibilities

When a member of staff informs their line manager regarding their intention to undergo gender reassignment process, the line manager is advised to seek support and advice from the BCU / Departmental HR Business Partner who will liaise with Corporate HR, Corporate Finance and Occupational Health, if applicable, and/or a support organisation respecting the individual's right to confidentiality, as to likely issues that should be considered for the member of staff and the Force.

These may include (in no particular order);

- Does the individual wish to stay at their current workplace or be redeployed? Is this a practical solution?
- When and how should others be told (if at all)?
- Whether the member of staff wishes to inform their line management, colleagues and external organisational contacts personally, or would prefer this to be done for them (if at all)?
- What is the expected time off for medical and surgical procedures? (Flexibility regarding time off is recommended to enable the member of staff to undergo the treatment)
- When treatment is to commence
- Expected point the complete transition to new gender
- Welfare reports and sickness monitoring and confidentiality
- Implications on performance
- Pension status and expected retirement age.
- What support does the individual think they will require?
- When and how to commence living in the new gender and what appearance changes to be expected
- What amendments will be required to records and systems?
- Do unisex facilities need to be made available?
- At what point to commence the use of single gender facilities
- How to handle hostile reactions, harassment and unwanted media interest?
- How to control rumours
- What education needs to be provided by the Force to assist colleagues to understand and provide appropriate support to the individual?
- Consideration regarding interim position of 'intimate' searching of prisoners and suspects.
- Information regarding internal and external support groups
- Dress/uniform issues
- Legislative compliance

This list is not exhaustive and the line manager, and HR Business Partner, may need to consider other issues and concerns raised.

The Force provides further guidance on:

1. Legal implications:

- The Equality Act 2010

2. Terminology:

- Individuals will self-identify and how they choose to describe themselves should be respected by their managers and colleagues
- Glossary of terms

3. Confidentiality

- Standards of Professional Behaviour
- Gender Recognition Act (2004) and Gender Recognition Certificates
- DBS checks

4. Employment of transgender staff

- Confidentiality
- Employment references, security checks, medical screening
- Holding personal data

5. Further support and guidance

- Internal and external support networks and resources

LEGISLATION & REGULATION:

Links to other legislation/regulations:

- Human Rights Act 1998
- Data Protection Act 1998
- Gender Recognition Act 2004
- Equality Act 2010
- Police (Conduct) Regulations 2012