



WEST MIDLANDS POLICE

Force Policy Document

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EDHR Vision Statement and Values

“Eliminate unlawful discrimination, harassment and victimisation. Advance equality of opportunity and foster good relations by embedding a culture of equality and respect that puts all of our communities, staff and officers at the heart of everything we do. Working together as one we will strive to make a difference to our service delivery by mainstreaming our organisational values”

“All members of the public and communities we serve, all police officers, special constables and police staff members shall receive equal and fair treatment regardless of, age, disability, sex, race, gender reassignment, religion/belief, sexual orientation, marriage/civil partnership and pregnancy/maternity. If you consider this policy could be improved for any of these groups please raise with the author of the policy without delay.”

INTRODUCTION

West Midlands Police is committed to promoting a diverse workforce to reflect the communities it serves. Trans is a general term used to cover transsexual people, those who ascribe to a third gender and transvestite/cross-dressing individuals. WMP will endeavour to promote an understanding of trans issues, and all employees have a responsibility to work within the terms of the trans Equality Policy.

At the heart of this understanding it must be recognised that trans issues relate to “Gender” and not “sexual orientation” as is sometimes believed. A trans person may have any of the range of sexual orientations as do all other individuals.

Recognition will be given to ability and potential, regardless of gender status, and a framework will be provided to ensure WMP offers a supportive environment to meet the needs of trans colleagues. West Midlands Police will work towards a culture of inclusion and diversity in which colleagues feel free to disclose their gender status should they wish to do so.

AIMS

- To promote trans issues within WMP in terms of awareness and understanding and to provide equality of service and opportunity to trans colleagues.
- To provide a supportive environment, which will encourage ability, ensure that each individual's needs are met, and that they are allowed to reach their full potential.
- To ensure that all colleagues have equal access to training, development and promotion.
- To retain the skills, experience and knowledge of all colleagues who are transitioning, who have transitioned or are intending to transition later during their career.
- To ensure confidentiality for all trans colleagues.
- To promote inclusion, dignity and respect for all trans colleagues.
- To promote equality, and in doing so, prevent harassment and discrimination of trans colleagues.

LEGAL FRAMEWORK

The Equality Act 2010 replacing The Sex Discrimination Act 1975 (October 1st 2010) states that it is unlawful for an employer to discriminate against an employee, job applicant or contractor on the grounds of that person's sex, or gender reassignment, or because they are married or in a civil partnership. It applies equally to men and women. The law also covers harassment and victimisation. The employment provisions of the Act cover recruitment, transfer, training and promotion, access to work-related benefits, facilities and services, dismissal, and any other detriment. It is also unlawful for an employer to instruct someone else to do something discriminatory – for instance, telling an employment agency not to hire a transsexual person. Pressure to discriminate is also unlawful – for example employees threatening not to work unless their employer dismisses a colleague who has decided to undergo gender reassignment.

The Equality Act 2010 states 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.

As soon as an individual indicates the intention to commence gender reassignment, they receive legal protection. Discrimination in this context means treating a trans person less favourably than

you treat (or would treat) another colleague who is not undergoing gender reassignment. West Midlands Police, as an employer, can be held responsible for discriminatory acts by its employees, unless the organization can show that it had taken such steps as were reasonably practical, to stop the employee from doing the particular act or acts of that kind. Employees remain individually liable for their own discriminatory acts, even where the organisation is also potentially liable.

There is also protection from harassment by explicitly making an employer liable if an individual is harassed by a third party (such as a member of the public using a service) during the course of employment, in circumstances where the employer knows that the person has been subjected to such harassment on at least two other occasions (whether by the same or a different third party), but has failed to take steps to prevent it. The Equality Act already provides protection from harassment by an employer or by other employees on grounds of sex and on grounds of gender reassignment.

An employer would also be acting discriminately if they treated the trans person less favourably as a result of their sickness/injury absence relating to their gender reassignment.

DEFINITIONS

Transsexual people experience a recognised medical condition in which their gender identity does not match the sex that was assigned to them at birth. Thus, the individual typically feels a sense of inappropriateness in their birth gender and consequently often a persistent and significant discomfort with their anatomical sex. Within contemporary medicine, this syndrome is generally described as 'gender identity disorder' (GID) or 'gender dysphoria' (GD). At some time in their life, such people may seek medical advice and support to resolve the feelings they experience. Depending upon their personal and social circumstances, their family support, and their own determination, they may wish to undertake gender reassignment.

Gender reassignment is a collective expression describing a range of hormonal, surgical and therapeutic treatments and interventions, which can support an individual's transition to a social role and physical presentation that is in harmony with their gendered sense of self.

This process commences with transsexual individuals starting hormone therapies and beginning to live permanently in their preferred gender. This is known as real life experience, and guidelines recommend that this is undertaken for at least two years before surgery can commence. Most will proceed to have some, if not all, gender reassignment surgeries. However, it must be understood that not every transsexual person will be able to undergo gender reassignment surgery, either due to their own wishes or for medical reasons. Cross-sex hormone administration usually continues for life, even following gender reassignment surgery.

A Gender Recognition Certificate cannot be obtained until at least 2 years post transition and will be dependent on particular evidence. It must be noted that not all transsexual people will wish to apply for legal recognition of their acquired gender, for example if they are married and do not wish to annul their marriage and form a civil partnership instead. The default respectful title is that of the acquired gender i.e. he or she accordingly; however some people who transition may be comfortable to be known as trans, but this will be an individual decision.

Having discussed the path followed by transsexual people, it is important to be aware that there are other kinds of gender-variant experience and expression which, although not covered by legislation or leading to the kind of therapeutic care pathway described above, can still result in the need for awareness and support on the part of employers and co-workers. The need for support may arise from the individual themselves seeking a comfortable accommodation with their nature, but it may also originate from colleagues who are the parents, partners, siblings or associates of a trans individual, who may be experiencing difficulty with coming to terms with the issues they face.

Some trans people will live permanently in their acquired gender, although they may choose not to undergo any surgical procedures to change their body. Some will live 'between genders'; terms for such people include polygender or androgyne. They wear a mix of clothes, and frequently people find it very difficult to ascertain their actual gender or the gender which they would prefer to be.

Cross-dressing or transvestism is the desire to adopt the clothes, appearance and behaviour usually associated with the opposite gender. For some it is simple 'dressing up', while for others, known as dual role cross-dressers, it is a need to adopt the opposite role as fully as possible, on a temporary, or on a full time basis. It should not be assumed that men or women who cross dress are lesbian, gay or bisexual.

WMP recognises that everyone is different and promotes a workplace environment of dignity and respect.

CONFIDENTIALITY

The code of conduct for police officers provides that information which comes into the possession of an officer, which includes that regarding their colleagues, should be treated as confidential except where the named person has expressly agreed to disclosure. The information should not be used for personal benefit or divulged to third parties, except in the proper course of police duty, i.e. where it would assist with the prevention or investigation of a crime, or where it is required by a court or a tribunal. Furthermore, the Standards of Professional Behaviour provide that police staff do not pass information to third parties who are not entitled to it. This includes for example, requests from family or friends, approaches by private investigators and unauthorised disclosure to the media.

The Gender Recognition Act 2004 provides a formal method for the legal recognition of the acquired gender of a person who can meet the Act's requirements. The granting of a Gender Recognition Certificate (GRC) recognises the individual's acquired gender for all purposes in law from that moment forward (the law is not retrospective). Legal recognition also provides formal protection for the privacy of individuals, so it is a criminal offence to make an unauthorised (i.e. without their direct permission) disclosure of a person's current gender status or birth gender. It may be reasonable, for monitoring purposes, to collect information regarding the gender variance of colleagues, if it is done in a manner which renders trans colleagues unidentifiable. However, transsexual colleagues are not obliged to disclose their birth gender or trans status, but if applicable, doing so will assist WMP in providing the appropriate support. Any information held about a person's trans status will be treated in the strictest of confidence. Many trans people are not known to be such in their workplace, having effected gender transition before commencing employment or changing jobs at the time of transition.

The holder of a GRC is not obliged to divulge at any time during recruitment or employment, that one is held, but certainly if the individual chooses to do so, then their gender history is clearly established as 'protected information'. The term 'stealth' is sometimes applied to such people, yet their actions are not born out of a wish to deceive, but from a natural and understandable decision to maximise the opportunity for privacy and facilitate acceptance in their acquired gender role. Any suggestion that such a person is not being 'open and honest' is therefore totally unreasonable. For the individual concerned, it constitutes living on a 'knife-edge' of disclosure for life in the goldfish bowl.

RECRUITMENT

WMP is committed to ensuring that trans people receive full and equal consideration throughout the whole recruitment process. WMP welcomes applications from people from all strands of diversity for all posts.

As an employer, the Force will ensure that consideration is given to people from the trans community in terms of:

- Arrangements to be made for determining who should be offered employment.
- The terms on which the applicant is offered employment.
- Ensuring that role descriptions reflect the competencies and skills required and do not include unnecessary requirements that may be indirectly discriminatory.
- Applicants are only obliged to give current names for employment references. The respective forms used for security checks and medical screening will seek information that will lead to identification of trans status. This information will remain confidential and the disclosure of this information will be restricted to those personnel involved in the two procedures. Any subsequent paperwork that indicates the individual's trans status will not be accessible to other personnel. Breaches of confidentiality should be treated in the same manner as disclosure of personal details of any other member of staff.

LEARNING AND DEVELOPMENT

As a public body, we are subject to the general duty on gender, which means we are required to eliminate all discrimination and harassment, and promote equality of opportunity for trans colleagues. In order to assist us in fulfilling this duty, WMP should provide:

- Trans awareness and knowledge to all colleagues.
- Induction training for all colleagues, which will have a specific element on trans awareness.
- Equality of access to training and development opportunities for all colleagues.

MANAGING A TRANSITION

MEMORANDUM OF UNDERSTANDING

The default position for all line managers and senior managers involved in a member of workforce's transition process is for it to be individually led as much as possible.

For the purpose of initiating the protection outlined in this document there needs to be an agreed commencement date made formal in writing. This should be agreed between the individual transitioning and their line manager. Confidentiality will apply as outlined above.

Once the process for the transition has been agreed, a "Memorandum of Understanding" should be drawn up between the individual, their LPU Commander/Head of Department and Personnel Manager. The initial meetings and the drafting of the document can be undertaken by the individual's nominated point of contact, but the LPU Commander/ Departmental Head is encouraged to take an active role in the negotiations and to meet with the colleague before signing the memorandum. The individual may wish to have the assistance/support of a friend or advisor during this process. The memorandum of understanding should include:

- Whether the colleague wishes to stay in their current post or be redeployed, or whether they require being restricted for medical reasons.
- The expected timescale of the medical and surgical procedures, if known.
- The time off required for medical treatment, if known.
- The expected point or phase of change of name, personal details and social gender.
- Whether the colleague wishes to inform their line manager, colleagues and customers themselves, or would prefer this to be done for them.
- What form of training or briefing of colleagues or customers will be necessary?
- What amendments will need to be made to records and systems and at what time?
- The steps to be taken to ensure these changes are implemented simultaneously – for example ID badge, tax records, email addresses and other personnel records. For a full list of records which might need to be changed for an individual who is transitioning at work, please see appendix A.

- Whether a transsexual employee is adequately covered by existing pensions and insurance provisions and if not, how these will be amended.
- Agreeing a procedure for adhering to any dress code.
- Agreeing the point at which the individual will commence using single sex facilities in their acquired gender [for example toilets (see below)].
- Agreeing how and when colleagues will be informed of when the individual will be using different facilities and devising a strategy for dealing with objections that could arise from other colleagues.

The notes of all meetings should be kept strictly confidential within the individual's personnel file.

The "Memorandum of Understanding" is a living document and can be updated at any time to reflect changes in personal circumstances. The individual should be given the opportunity to attend a review meeting at least every three months and the memorandum reassessed at each significant stage of the process. The memorandum is a confidential document. Discussion should take place to agree where copies should be kept and for how long, as well as who should have access.

TITLES AND FORMS OF ADDRESS

Individuals must always be addressed in the terms in which they identify and present themselves. An individual who presents and identifies as male should be referred to as 'Mr.' or he, and a person who presents and identifies as female as 'Miss, Ms, Mrs.' or she.

INFORMING OTHERS OF A TRANSITION

Following discussions between the individual and their line manager, it should be established whether the individual wishes to inform colleagues about trans issues and their proposed transition. Many individuals wish to keep their trans status private, whilst others are willing to discuss it confidentially or openly. Such information is necessary only where the relationship, with a person who knew the individual prior to their change of status, is to continue. So, unless the individual requests otherwise, the details should only be shared with such a person. It is usually good practice for the employer to take responsibility for informing those who need to know, though the known wishes of the individual concerned are of paramount importance in this regard. In some circumstances, the trans individual may wish to disclose these matters personally to some or all of their contacts. If this is the case, their manager will need to know when the disclosure is to take place and how much information will be disclosed in order to provide appropriate support to the colleagues involved.

Discussions should take place on two levels, general information about trans issues and specific information to enable people to understand the situation of the particular person involved. At the point of change, it is common for trans people to take a short time off work and return in the new name and gender role. This can be used as an opportunity to brief others. In all cases, the legal obligations of management should be explained and the unacceptability of harassment made clear. Trans employees are entitled to expect support from West Midlands Police as the employer, which should include discussions and explanations for other members of the workforce or members of the public about the practical implications of gender reassignment as and when necessary.

While it is good practice to issue a stern warning to other employees about the disciplinary consequences of discrimination against the transitioning colleague, this should be accompanied by training. This will ensure that other employees understand the nature of gender variance and accept the transitioning colleague's right to equal treatment. Otherwise, the other employees may feel uncertain about how to relate to the transitioning colleague or even resent the way they are forced to deal with them, which may lead to the colleague's isolation.

WMP OCCUPATIONAL HEALTH DEPARTMENT

The role of Occupational Health will be to advise on the individual's fitness for work and fitness for role, as well as to provide appropriate advice on medical issues, which may impact on an individual's ability to carry out the full scope of their role. Advice on absence relating to treatment for trans purposes should also be sought (in line with current policy for attendance management). A person experiencing gender dysphoria should be offered the opportunity to be referred to Occupational Health for advice. Occupational Health cannot seek to replace the specialist medical advice, assessment and support required by individuals who are considering gender reassignment and would not presume to offer any opinion to individuals who are considering this. However Occupational Health are able to offer confidential support and counseling for those who are suffering emotionally at what can be a distressing and confusing period of their lives.

Post surgery, advice may also be needed regarding any temporary adjustments which may be required to assist an individual to return to work, who may not initially be able to undertake all aspects of their substantive role. Any individual referred to Occupational Health can expect the issues to be dealt with in the strictest of confidence, in line with the Confidentiality (Medical) Policy, as would be expected from any other practitioners providing care.

SPECIAL LEAVE

Special leave can be taken if a colleague requires time off work to undertake treatment relating to their gender reassignment. This can be in terms of surgery or admission to hospital or prolonged treatment that would incapacitate them from working, or for the purpose of attending a hospital appointment or treatment which is related directly to their transsexual status.

HEALTH AND SAFETY

WMP has a legal obligation to manage risks and to manage the health and safety of employees. Management must be aware of ongoing risks and put in place measures to minimize risk to employee wellbeing. This may be relevant to a trans individual returning to work.

DEALING WITH THE MEDIA

Given the sensitivity of gender reassignment, there is always the possibility of intrusion from the media. In the interests of confidentiality, the name and specific post of the individual must not be revealed in respect of media enquiries. If the identity of the individual becomes known to the media, the risk assessment should be reviewed immediately. It may be necessary to protect the individual with additional control measures such as redeployment away from contact with members of the public. It may also be necessary to help the individual move from their present address if besieged by the media at home. The wishes of the individual must be considered in any response given to the media.

THE USE OF GENDERED FACILITIES

The use of toilets and other gendered facilities can occasionally be an issue in the workplace, particularly during the early stages of transition. The usual point for starting to use opposite gender facilities will be the day the colleague starts coming to work in their acquired gender role. It is not good practice to require an individual to use disabled toilet facilities, and legally, following gender reassignment surgery or legal recognition, transsexual people must be supported to use all facilities designated for other members of their acquired gender. It must be borne in mind that successful routine use of the appropriately gendered facilities is a necessary element of an individual's gender reassignment.

It is never acceptable to require someone undergoing gender reassignment to use toilets or other facilities designated for members of their birth gender.

SEARCHING

The Police and Criminal Evidence Act (PACE, 1984) provides that stop searches that go no further than the outer clothing can be conducted by people of either sex, so consequently, there are no restrictions on trans individuals conducting such searches.

There has been a certain lack of legal clarity and guidelines around intimate searching where trans officers are concerned. It has been suggested that evidence collected would not be admissible except by those with legal status i.e. a GRC, however there is no clear legal precedence. WMP's position is to recognise the status of trans individuals from the moment they transition and not just those with a GRC. This accordingly treats trans individuals with equal status and respect and is in line with how WMP would treat all other workforce members.

Thus once the WMP officer has made the transition according to the above process WMP will subsequently recognise the officer in their acquired gender. At this point they will be searching those persons of the same gender as their acquired gender not those of their birth gender. However this is a difficult period in the trans individual's life and WMP would not insist.

IT AMENDMENTS

This would include amending, where required, all the IT systems listed on the intranet page, pensions department, Police Federation / unions (and any insurance policy held with them) plus for example staff association membership, uniform stores data, Ridgepoint House data (elimination fingerprints and DNA), any WMP external website entries, and local PNB records / any other 'local' records held on LPU.

In addition, award / commendation certificates should be re-issued in the new name. Any e-learning certificates can be re-generated from the relevant e-learning portal once the individual has had their details updated on Promis allowing them to log on to WMP main system in their new name.

GIVING EVIDENCE AT COURT

If a member of staff undergoing a transition has to present evidence at court it is suggested that they discuss the case with their immediate line supervisor who should then contact the relevant CPS Manager in charge of handling the prosecution case at court. There should then be a review and discussion on what further statements and information is required by CPS.

It should be stressed that WMP do not insist that the individual holds a GRC in order to be accorded recognition in these circumstances and this point should be stressed in conversation with other criminal justice agencies.

Each case needs to be assessed on a case by case basis. It all depends on the role of the member of staff in the case and the evidence they will be providing. It could be that if the role is minor and the evidence provided in the original member of staff's witness statement is not disputed by the defence, it could be accepted before any trial and negate the need for the member of staff to attend court.

If following the review and discussions with the CPS, the attendance of the member of staff is essential, CPS can advise on what further witness statement(s) are required and also jointly assess whether there are any special measures that may need to be considered or applied at the court to help and support the member of staff. Members of staff who are giving evidence at court are classed as witnesses, and all witnesses undergoing a transition are entitled to be treated with the same respect for their privacy.

POLICE STAFF PENSIONS AND RETIREMENT

The process of equalising the state pension age of men and women to 65 begins in April 2010. After 2020, gender will no longer be an issue in this respect. The current age at which state retirement pensions will become payable and liability to National Insurance contributions ceases is 60 for women and 65 for men. The determining sex for these purposes is legal sex or gender and will therefore be 60 for transsexual men and 65 for transsexual women unless a GRC is held, in which case the determining sex is the same as the acquired gender. It is the responsibility of the West Midlands Police to take suitable steps to keep confidential the reason for the individual's apparently early or late retirement. It is the responsibility of the individual to ensure that any occupational pensions they may hold are updated to show their new gender status.

DISCRIMINATION

Discrimination against trans colleagues will not be tolerated. Colleagues will be afforded the same opportunities and benefits as all other colleagues. WMP will positively promote equality of opportunity for training, development and promotion.

HARASSMENT

Harassment of a trans colleague will not be tolerated. Harassment will be judged to have taken place where:

- A colleague's dignity has been violated.
- A hostile, degrading, humiliating or offensive environment has been created.

WMP will provide a supportive environment for colleagues who claim discrimination, harassment or abuse. Any employee found to be causing harassment of a colleague will be disciplined.

MONITORING

Monitoring of processes and statistics will be used to ensure that there is no adverse impact for trans colleagues arising from policies and procedures. The confidentiality of individuals will be respected as detailed above.

Trans Equality Policy

Appendix A

Records that may need to be changed at work for an individual under going Gender Reassignment

The number of records that need amending will depend on the number of systems to which the individual has access, and the type of name change taking place, that is to say whether an individual's last name is changing as well as their first name.

IT Systems

ANPR
Bluepages
CLIO
Compact
COPS
Corvus
Crimes
Discoverer
DocuTrak
EFB
Email
FLINTS
GRS
iCASS
ICIS
IMS
Launchpad
MAMS
NCALT CJX
NCALT Internet
NMPR
OASIS PV
Oracle
Open Source
Pagasus
PINS
PNC
POLKA
Promis
Property
Quality of Service
Quest
Skills Database
Uniform stores records
PNC SRG
VC Relay
Vetting Database
ViSOR
Voicemail

Other Systems

Elimination DNA and fingerprint database
Local pocket note book records
Occupational Health records
Shared drive records

Consideration could be given to re-issuing any qualification certificates, as well as reward and recognition awards.