

Working with Non- binary and Transgender Pupils: Guidance for school staff and other professionals

Introduction

The purpose of this document is to reassure and support school staff and others working with children and young people who express gender variance or identify as Trans* in order to ensure that children and young people's experience of education is as positive and supportive as it possibly can be.

The information included in this document has been gathered from a number of sources:

- Current literature on gender variance
- Relevant equality policy and legislation
- Good practice from other areas within the UK and internationally
- Information from schools, families and young people in Highland (and beyond) on how best to support them

Gender Identity issues have in recent years become more apparent to those working with young people in Highland. The aim is to look at how best education staff and others can support, inform, protect and enable children and young people in Highland questioning their gender identity to achieve their full potential, whatever age and stage a young person is at.

What do you need to know?

As with any issue around inclusion and equalities, a whole school approach works best. Schools should work with staff, pupils, parents/carers, multi-agency partners etc to ensure that anti-bullying policies and promoting positive relationships policies are embedded and active. School staff and senior management teams in particular can have a huge impact on acceptance and inclusion within the school community. This is particularly true in smaller school communities. The Head Teacher can very much lead the way in the way they approach any situation.

The more supportive and accommodating staff are of a child or young person expressing their non-binary Gender Identity, then the more accepting peers are likely to be, remembering that we are modelling for them. For many peers, they will simply accept the child or young person for who they are – not what they are. Staff should not underestimate the positive impact their attitude and approach can have for young people. Smith et al. (2014) found that young people who did not feel supported by school staff were over four times more likely to leave education early if

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they experienced discrimination than those who felt they had good support from school staff.

It is natural to be confused, make mistakes and trip ourselves up at times. We need to give ourselves time to think through our own natural reactions and then think about how we personally can support children and young people experiencing gender variance.

Overall, a sense of understanding, respect and willingness to get things right for the child or young person are key here.

Our commitment to Equality

As professionals working within Children's Services, we have a duty to advance equality and tackle discrimination. This commitment is demonstrated in the Schools' Promoting Equality and Diversity Policy Statement and Toolkit agreed in 2015 and being rolled out across schools in Highland.

The policy aims to:

- Promote positive attitudes and behaviours towards equality and diversity
- Promote understanding of equality and diversity through the school curriculum and ethos
- Help the school to meet these aims and fulfil our legal obligations

It is important that all of those working in Children's Services challenge typical gender stereotypes, as these tend to perpetuate inequality and reinforce differences between gender rather than individuals being people first and equals. Generally speaking, these stereotypes persist, with boys being encouraged to be active and adventurous in their play, they are expected to behave more aggressively; whereas girls are expected to be and to look 'nice' and to take on caring and nurturing roles from a very young age (Zero Tolerance, 2013).

http://www.highland.gov.uk/downloads/file/11627/promoting_diversity_and_equality_policy

Understanding gender variance and transgender identity

There is a rich diversity of vocabulary that is used to describe Gender Identity and associated terms. The terms which are used within this document are suitable for

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use in practice within care and learning communities. There is a glossary of terms at the end of this document.

At times medical practitioners will give a diagnosis or label (e.g. gender dysphoria or gender identity disorder) in order to refer to a gender identity clinic for consideration for further intervention. Much of the more recent research however suggests that pathologising young people around their gender identity can have significantly negative and wide ranging consequences and we should be avoiding this as far as is possible.

A person expressing Gender Variance can live their life without needing to be diagnosed as having Gender Dysphoria. However most or all children or young people expressing Gender Variance – and their families – will need some experienced support as they grow up and develop.

Society often only acknowledges two biological sexes and two gender categories: male or female. With each of these categories there are expectations and rules. These rules dictate standards for many things such as clothing, activities and behaviours and are not fixed laws but vary across societies, cultures and times. To help with understanding, some researchers suggest that gender would best be thought of as a spectrum rather than two binary categories.

“We are all socialised according to our sex (male or female) at birth, whether we like it or not. The influence of culture is huge. And because marketing and money are often involved, the messages are very powerful and very successful.” (Zero Tolerance, 2013)

We or others cannot influence a child or young person’s gender identity but we can influence how a child or young person feels about themselves in relation to their gender identity. It is important to recognise that many children, especially younger children, will try out gender non-conforming behaviours or interests out of curiosity but often this will be brief and passing.

Wherever possible, young people should be given the opportunity to say how they identify or describe themselves.

It is important to hold in mind that Gender Identity and Gender Variance status are quite separate to sexual orientation.

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The terms which are used within this document are suitable for use in practice within care and learning communities.

Legal provisions

There are several pieces of legislation which ensure legal protection around equalities. These include The Equality Act (2010) which has a particular section on public sector duty, The Gender Recognition Act (2004) and The Human Rights Act (1998). The introduction of the Equality Act provides protection for pupils against discrimination because of gender reassignment for the first time. This means that it is unlawful for schools to treat pupils less favourably because of their gender reassignment.

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. For school pupils, especially, this may simply include choosing to dress in a different way as part of the personal process of change, or making their intention known to someone, regardless of who this is (whether it is someone at school or at home, or someone such as a doctor).

Practice Examples A-Z

As previously mentioned we are very much socialised to view male and female as two distinct categories. This then impacts on our behaviour. Within professional practice this can be seen in the way we may organise groups of children or young people. Often in schools we ask pupils to separate themselves on the basis of sex. This can be true in terms of lining up to come in to school, taking part in competitions, choosing of pupils for special tasks (one boy and one girl), seating pupils boy then girl. Moving away from these distinctions and thinking of other ways to group children and young people can significantly reduce discomfort for children or young people who are non-binary or transgender.

On occasion school staff who have experience of working with non-binary or transgender young people have shared that they have accidentally made mistakes around this and have carried out these practices without really thinking and then felt very bad about the impact they have witnessed within the child or young person. It

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is important to acknowledge and apologise for the mistake discreetly where appropriate.

Often the child or young person themselves is happy to be consulted about what they are and are not comfortable with – in a discreet manner. Often they understand that adults are likely to make mistakes and accept that the adults are trying and are well intentioned if this is the case.

Absence from school

A young person may require time away from school for treatment and support from external sources. Schools must make reasonable adjustments to accommodate. It is important that the reason for absence is recorded sensitively.

Bullying

A robust and preventative anti-bullying strategy should deal with the majority of the issues that arise in terms of negative behaviour/language from peers. It is important that all staff challenge this and do not ignore it or allow it to happen. Transphobic or Gender Variant discriminatory incidents require to be recorded and dealt with in the same way as other incidents that are motivated by prejudice or hate e.g. racist or homophobic. This is set out in the Highland Council's Positive Relationships and Bullying Preventions policy guidance and toolkit

https://www.highland.gov.uk/downloads/file/19358/anti_bullying_-_guidance_for_schools

Bullying can be an issue around the area of Gender Variance, non-binary, transgender, homophobia and biphobia. It is important to remember that any young person who is considered not to be behaving in a gender stereotypical way could be the target of homophobic, biphobic or transphobic bullying. This is also true of friends of young people who are expressing gender variance or identify as Lesbian, Gay, Bisexual or Transgender (LGBT) or have an LGBT family member or friend.

Including relevant topic areas within the Health and Wellbeing Curriculum e.g. equality, diversity, inclusion, bullying, emotional wellbeing etc will be useful and should be considered from as early a stage as is possible. There are useful materials available.

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Changing Name and Pronoun

A change of name and/or associated gender identity should be respected and accommodated in school. It is advisable to contact the Scottish Qualifications Authority (SQA) to ensure that exam certificates are issued in the preferred name of the young person.

It is possible for most documents to be changed to reflect the chosen name and/or gender identity of the young person. Changing details on a birth certificate is not possible until a Gender Recognition Certificate has been issued. For other official documents such as a passport it may be necessary for evidence of change of name to be produced. Support organisations will hold more current information on the subject of changing name.

Confidentiality

It is important that confidential information about pupils must not be shared with other parents or pupils. It must be recognised that people have their own prejudices. These may be expressed by other parents or young people within the school community. Should a school be contacted for information on a particular pupil the following suggestions are provided in dealing with such queries:

“ this issue involves the personal circumstances of a child or young person we are unable to make any comment on this individual case.”

“Highland Council and/or X School is committed to working with schools, families and other agencies to ensure that the needs of all children and young people in Highland are met and that they can achieve their full potential.”

Some parents of non-binary and transgender children or young people have written to other parents to explain the situation. This has mostly been in smaller school communities. This is of course entirely the decision of parents and carers. There are potential risks and benefits in that it could potentially be very exposing for the young person and their family, but also we know that much prejudice comes from misunderstanding or misconception and making the situation clear from the beginning can act against this. This is a tricky one which can only be decided upon by parents and carers – and the young person themselves where appropriate.

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Discrimination

Protection against discrimination because of gender reassignment applies to direct and indirect discrimination and victimisation, and includes discrimination based on perception and on association. Schools need to make sure that transgender or gender variant pupils are not singled out for different and less favourable treatment from that given to other pupils. They should check that there are no practices which could result in unfair, less favourable treatment of such pupils. Examples might include:

- an inflexible school uniform rule which offers no “unisex” options such as trousers for girls;
- failing to provide appropriate changing facilities for a transgender pupil;
- if a school treats bullying which relates to a protected ground less seriously than other forms of bullying – for example failing to protect a transgender pupil against bullying by classmates
- Intersex people are not explicitly protected by the Act, but a person must not be discriminated against because of their gender or perceived gender.

Language

Language is crucially important in the message that we give out to others. It is good practice to focus on the use of the correct language around Gender Identity and Gender Variance.

Although it can be confusing and require a great deal of self awareness and reflection to consider our own use of language it is fundamental to getting it right for children and young people expressing Gender Variance. Our use of language and our behaviour will act as a model to the children and young people around and therefore we have an opportunity to influence their attitudes and learning.

When working with a child or young person, it is important to ask each individual how they would like to be referred to. They may have a strong preference or they may prefer to be referred to by their name rather than a gender label. Also this may change at any given time, so if there is uncertainty it is exceptionally important to check this out. In addition, it is important to give the message to the child or young person that if any use of language makes them uncomfortable that they are to share this with a relevant adult.

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Some people preferred to be referred to using the gender neutral 'they' or 'ze' rather than 'he' or 'she'. Ze is considered a gender neutral pronoun. The key message though is to ask.

It is important to be conscious of the language that we use also e.g. "girls can you please come over here" when referring to a group of females. Instead using something like "could child x's group please come over here" or "could this group come over here".

Moving School

Some young people prefer to move school to make a fresh start. Transition from one school to another requires to be well planned with good communication between the old and new school. The rights, thoughts, concerns and wishes of the young person and their family needs to be sought and considered at the earliest opportunity.

Parents

You may find when working with parents that their thoughts and feelings around what is happening for them may vary on a daily basis and at times they may be ambiguous. Parents' presentation and attitudes may be very mixed and change on an almost daily basis. This is perfectly normal in the same way that staff may also have changing feelings. It is important to support parents as far as is possible.

Staff should be aware that some young people may be in a very vulnerable situation at home due to their gender identity. This should be monitored and reported through the normal child concern systems already in place as appropriate.

School Trips and Overnight Stays

Issues may arise around accommodation for overnight stays or residential trips. This must not mean that a child or young person cannot be included on the trip. Consideration should be given well in advance to any additional needs to ensure that the young person is fully included.

Sleeping arrangements will need to be thought about before a trip is undertaken. It is possible that the student would prefer to have a separate room or discussion with selected peers and parents as appropriate to find a more inclusive solution. Each

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individual situation and trip will need to be thought of separately. Discussions should happen well in advance with the young person and with any and all appropriate bodies.

If international travel is being considered, it is important to remember that, just as anyone can be searched at borders and other places, a Gender Variant young person may well be searched. Different countries will have policies and procedures that they will follow. Contacting the relevant border control or agency in advance will ensure that any policy or risk assessment completed by the school is accurate for that trip.

It is important to consider that there are countries which are not as legally or culturally open as the UK. In fact some have laws that make it illegal to be Transgender or Gender Variant. Some countries even make it an offence not to report to the authorities someone who is Gender Variant. Schools should consider and investigate the laws regarding Gender Variant communities in countries considered for school visits.

School Uniforms and Dress

School uniform should not present an issue for children and young people expressing Gender Variance. Most schools have a unisex policy where everyone can wear trousers. This may not be so for those who wish to wear a skirt however, as this may be restricted to 'girls'. Many schools often have a set of rules for makeup and appropriate dress and this will need to be enforced for any pupil.

Swimwear can be an issue for young people expressing gender variance. It may be important to explore 'gender neutral' swimwear such as rash vests and swim shorts, baggy shorts or short wetsuits.

For pupils who may be binding (their developing and unwanted breasts), there may have to be further consideration, as this can in itself cause a young person to become overheated and present difficulty with breathing. This has been an issue with laboratory coats and in physical education but one which has often been overcome in consultation with the young person. It is important for a young person's emotional and psychological wellbeing that they are able to bind if they wish to do so.

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Sports and PE

All young people have the right to take part in sports and physical education. Young people should take part in sport with their preferred gender. This should pose little difficulty at the primary stage as most lessons are mixed gender. At the secondary stage, the context of the lesson may need to be managed more carefully and sensitively. The issue of physical risk within certain sports can be managed within the lesson context rather than by preventing a young person from participating (which would be discriminatory).

Where Trans female young people may be deemed to have a physical advantage over other girls and this should be managed and should not present as a problem if the lesson is managed well. Certainly Trans male young people may not gain a physical advantage so there should be no issue regarding their participation.

High contact sports may pose some physical risk and the school should carefully consider its approach around these.

With competitive sports, guidance should be sought by the various sporting bodies. If there is no specific guidance from these at school level, then a common sense approach should be employed.

Training

Where staff are struggling with concerns and practice this can be dealt with by providing appropriate training – which can be provided by Highland Council Psychological Service. Having a clear Equality and Diversity Policy within a school establishment to address the issues that are most commonly raised is crucial. Often staff feel more comfortable with reassurance that many of the issues they are encountering have been considered prior and with some suggestions of how to proceed.

Staff are not always aware that not only is it ok to uphold the rights of non-binary and transgender children and young people, but also that it is their duty to do so. Having this communicated from senior management to all staff can be very empowering.

Use of Toilets and Changing Facilities

The use of toilets and changing facilities typically cause the most amount of debate around the inclusion of young trans people. Many non-binary and transgender children and young people have described uncomfortable situations where things

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have been said to them or body language has communicated negative expression when using gendered (male or female) toilet or changing facilities. Many young people choose to use the 'accessible' or disabled facilities as these are often unisex and make life easier. In these cases it may be appropriate to rename the facilities 'gender neutral facilities', 'larger toilet', 'toilet and changing facility' or simply 'toilet' to reduce the stigma of using disabled toilets.

Possible solutions will depend on the facilities which already exist within the school or provision. It is up to the staff to think about these issues in advance and if structural or building changes are going to be required then to inform the local authority at the earliest possible opportunity.

Recommendations are that provisions should conduct an appropriate risk assessment and audit of facilities, and identify, consider and make any reasonable adjustments. Any situation should be discussed with young people in case of any accidental effects such as stigma.

Use of accessible toilets is less than ideal and best practice shows that having gender neutral toilets is the most equal and inclusive solution.

Vaccinations

Vaccinations have historically been given to group of young people of all genders together in a large space in school. If vaccinations are sex specific, then it may be useful to arrange for the young person to have this done at the GP surgery rather than in school.

For more information or support please contact:

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Appendix 1

References

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Zero Tolerance Charitable Trust (2013) *Just like a child: Challenging Gender Stereotypes in the early years – A guide for Childcare Professional*. Edinburgh: Zero Tolerance

Resources - National

Cornwall Schools Guidance https://www.cornwall.gov.uk/media/13620644/schools-transgender_guidance_booklet-2015.pdf

East Sussex Schools Toolkit
<http://www.mermaidsuk.org.uk/assets/media/East%20Sussex%20schools%20transgender%200toolkit.pdf>

Equality Network <http://www.equality-network.org/>

Gender Identity Research and Education Society www.gires.org.uk

LGBT Youth Scotland <https://www.lgbtyouth.org.uk/>

Mermaids : Gender Identity Research and Education Society www.gires.org.uk

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Stonewall Scotland <http://www.stonewallscotland.org.uk/>

Resources – Local

Highland LGBT Forum <http://www.highlandlgbtforum.scot/>

The Pillars Youth Group <https://www.lgbtyouth.org.uk/highland>

SWANS Support Group <http://www.spanglefish.com/swansofscotland/>

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Appendix 2 – Useful Terms

Biological Sex: Assigned at birth based on a child's genitals and as to whether someone has an XX or XY chromosomal combination.

Biphobia - the fear or dislike of someone who identifies as bi.

Cisgender or **Cis** – someone whose gender identity is the same as the sex they were assigned at birth. Non-trans is also used by some people.

Coming out – when a person first tells someone/others about their identity as lesbian, gay, bi or trans.

Deadnaming - is calling someone by their birth name after they have changed their name. This term is often associated with trans people who have changed their name as part of their transition.

Gender dysphoria – used to describe when a person experiences discomfort or distress because there is a mismatch between their sex assigned at birth and their gender identity. This is also the clinical diagnosis for someone who doesn't feel comfortable with the gender they were assigned at birth.

Gender Fluidity: Gender Fluidity is a wider, more flexible range of gender expression which may change over time, sometimes as frequently as on a daily basis, depending on the individual child or young person.

Gender Identity: Gender identity refers to a person's internal sense of whether they are male, female, or something else (e.g. non-binary)

Gender reassignment – another way of describing a person's transition. To undergo gender reassignment usually means to undergo some sort of medical intervention, but it can also mean changing names, pronouns, dressing differently and living in their self-identified gender. Gender reassignment is a characteristic that is protected by the Equality Act 2010.

Gender Recognition Certificate (GRC) – this enables trans people to be legally recognised in their self-identified gender and to be issued with a new birth certificate. Not all trans people will apply for a GRC and you have to be over 18 to apply. You do not need a GRC to change your gender at work or to legally change your gender on other documents such as your passport.

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Gender stereotypes - the ways that we expect people to behave in society according to their gender, or what is commonly accepted as 'normal' for someone of that gender.

Gender variant –someone who does not conform to the gender roles and behaviours assigned to them at birth. This is often used in relation to children or young people.

Intersex – a term used to describe a person who may have the biological attributes of both sexes or whose biological attributes do not fit with societal assumptions about what constitutes male or female. Intersex people can identify as male, female or non-binary.

Non-binary – an umbrella term for a person who does not identify as male or female.

Outed – when a lesbian, gay, bi or trans person's sexual orientation or gender identity is disclosed to someone else without their consent.

Pronoun – words we use to refer to people's gender in conversation - for example, 'he' or 'she'. Some people may prefer others to refer to them in gender neutral language and use pronouns such as they / their and ze / zir.

Queer – in the past a derogatory term for LGBT individuals. The term has now been reclaimed by LGBT young people in particular who don't identify with traditional categories around gender identity and sexual orientation but is still viewed to be derogatory by some.

Questioning – the process of exploring your own sexual orientation and/or gender identity.

Trans – an umbrella term to describe people whose gender is not the same as, or does not sit comfortably with, the sex they were assigned at birth. Trans people may describe themselves using one or more of a wide variety of terms, including (but not limited to) transgender, cross dresser, non-binary, genderqueer (GQ).

Transgender man – a term used to describe someone who is assigned female at birth but identifies and lives as a man. This may be shortened to trans man, or FTM, an abbreviation for female-to-male.

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Transgender woman – a term used to describe someone who is assigned male at birth but identifies and lives as a woman. This may be shortened to trans woman, or MTF, an abbreviation for male-to-female.

Transitioning – the steps a trans person may take to live in the gender with which they identify. Each person's transition will involve different things. For some this involves medical intervention, such as hormone therapy and surgeries, but not all trans people want or are able to have this. Transitioning also might involve things such as telling friends and family, dressing differently and changing official documents.

Transphobia - the fear or dislike of someone who identifies as trans.

Transsexual – this was used in the past as a more medical term (similarly to homosexual) to refer to someone who transitioned to live in the 'opposite' gender to the one assigned at birth. This term is still used by some although many people prefer the term trans or transgender.

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