

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

Updated September 2016

## 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 their experience of education is a 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.

## Guiding Principle – Our Commitment to Equality

As professionals working within Children's Services, we have duties 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](http://www.highland.gov.uk/downloads/file/11627/promoting_diversity_and_equality_policy)

## CONTENTS

<b>1</b>	<b>Understanding gender variance and transgender identity</b> <ul style="list-style-type: none"><li>• Terminology</li><li>• Legal Provisions</li><li>• Discrimination</li></ul>	<b>Page 3</b>
<b>2</b>	<b>Supporting staff, young people, families and carers</b> <ul style="list-style-type: none"><li>• Supporting Pupils</li><li>• Supporting Parents</li><li>• Confidentiality</li><li>• Language</li></ul>	<b>Page 6</b>
<b>3</b>	<b>Training</b>	<b>Page 8</b>
<b>4</b>	<b>Practice issues</b> <ul style="list-style-type: none"><li>• Absence from School</li><li>• Sports and PE</li><li>• Toilets and Changing Facilities</li><li>• Uniforms and Dress</li><li>• Moving School</li><li>• Changing Name and Pronoun</li><li>• Vaccinations</li><li>• School Trips and Overnight Stays</li></ul>	<b>Page 8</b>
<b>5</b>	<b>Bullying</b> <ul style="list-style-type: none"><li>• Policy and Guidance</li><li>• Whole School Approach</li><li>• Contact for Further Information</li></ul>	<b>Page 12</b>
	<b>Appendix 1 – References</b>	<b>Page 13</b>
	<b>Appendix 2 – Useful Terms</b>	<b>Page 14</b>

# 1. Understanding gender variance and transgender identity

## Terminology

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

Transgender, Trans or trans are generally accepted as umbrella terms for people whose gender is different from the sex assigned to them at birth. A transgender person would describe someone whose gender identity is different to the one they were born with, and can be expressed through clothing and behaviour. A transsexual person is usually someone who wishes to change their body and 'transition' into the gender role of their choice. Some people will choose to transition socially, and some will also take medical steps to physically transition to live in their affirmed gender with the help of hormone therapy and/or surgery.

Gender variance is a broader term. It can include transgender people but also also people who experience issues with gender development, or who identify as non-binary or gender queer (see Appendix 2).

Children and young people expressing Gender Variance are sometimes considered to have a condition called Gender Dysphoria or Gender Identity Disorder. These are clinical conditions which can only be diagnosed by a medical and/or psychiatric expert. Much of the more recent research 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. At times medical practitioners will give a diagnosis or label in order to refer to a gender identity clinic for consideration for further intervention.

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.

## Legal Provisions

### **The Equality Act and protected characteristics**

The Equality Act 2010 ensures legal protection against discrimination for people with protected characteristics (often called 'equality groups'). The act applies to education as well as employment, access to services and a range of other areas. The protected characteristics for the schools provisions are:

- Disability
- Gender reassignment
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

Age, and marriage and civil partnership are not protected characteristics for the schools provisions, but apply to other parts of the Act.

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.

The Act states that '*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.*'

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).

### **The Public Sector Equality Duty**

The Public Sector Equality Duty (S. 149 of the Equality Act 2010), requires public bodies including schools, to consider equality when carrying out their activities – whether developing policy, delivering services or in relation to staff matters. It requires public bodies to have due regard to the need to:

- eliminate discrimination,
- advance equality of opportunity,
- foster good relations between different people

### **The Human Rights Act 1998**

The Human Rights Act incorporated the European Convention of Human Rights into UK law. It also gave all public authorities a duty to ensure that everybody should be treated equally and with dignity – no matter what their circumstances. The following articles in particular support the rights of Trans people;

- Article 8: right to respect for private life and family, and the right to marry
- Article 10: freedom of expression
- Article 14 the prohibition of discrimination – everyone’s rights are equal.

### **The Gender Recognition Act 2004**

The Gender Recognition Act 2004 created a process to enable transsexual people over the age of 18 to get their UK birth certificates and legal gender changed to match their acquired, or affirmed, gender.

### 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 transsexual 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.

A [2016 parliamentary report](#) emphasised that Trans people continue to experience high levels of prejudice and misunderstanding compared to other protected characteristics.

## **2. Supporting staff, young people, families and carers**

As individuals there is a great deal we can do in terms of the changes we can make in our own workplaces and families. There are often small changes in language and practice that have a low cost, but can make a high impact in the lives of young people and their families. Gender and socialisation are learned and therefore can be unlearned. Society can and does change over time – as at the start of the 20<sup>th</sup> century, pink was for boys as it was seen as aggressive and masculine, while girls wore the calmer blue. This is currently the opposite.

The document “Just like a child: Challenging gender stereotyping in the early years” produced by Zero Tolerance in 2013 is a guide for childcare professionals. It provides a context to challenging gender stereotypes with a section on ideas for practice and resources which may be useful.

The starting point is really universal with all professionals and others challenging the typical gender stereotypes and reinforcing the message that we are all individual and equal.

### Supporting Pupils

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.

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

### Supporting 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.

### 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:

*'As 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.

### 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 them how they would like to be referred to. They may have a strong preference or they may prefer to be referred to be 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.

Some people preferred to be referred to as '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".

### **3. Training**

Curricular materials to support class lessons are available on the Equalities and Diversity site within GLOW as are training materials to use in staff meetings or with groups within schools.

Where staff are struggling with concerns and practice this can be dealt with by providing appropriate specialist training. Central training on Equalities and Diversity can be accessed through the CPD website and specialist training on LGBT issues can also be provided by Highland Council Psychological Service. This can be arranged by contacting the liaison Educational Psychologist for the school.

Having a clear Equality and Diversity Policy within a school establishment to address the issues that are most commonly raised is crucial. Guidance on creating a policy can be found on the Equalities and Diversity site on GLOW. 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.

### **4. Practice issues**

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 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.

### 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.

### 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 people expressing Gender Variance. Many non-binary and transgender children and young people have described uncomfortable situations where things 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 'unisex accessible toilets', '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 of course less than ideal and best practice shows that having unisex toilets is the most equal and inclusive solution.

### 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.

### Moving School

Some young people prefer to move school to make a fresh start. Transition from one school to another would need 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.

## 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.

## Vaccinations

Vaccinations have historically been given to groups 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.

## 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 individual situation and trip will need to be thought of separately and in depth 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.

## 5. Bullying

### Policy and Guidance

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 are seen to be challenging this and not ignoring it or allowing it to happen. Transphobic or Gender Variant discriminatory incidents are required 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:

[http://www.highland.gov.uk/downloads/file/12121/positive\\_relationships\\_and\\_bullying\\_prevention\\_policy\\_guidance\\_and\\_toolkit](http://www.highland.gov.uk/downloads/file/12121/positive_relationships_and_bullying_prevention_policy_guidance_and_toolkit)

Bullying can be an issue around the area of Gender Variance, non-binary, transgender and Homophobia. It is important to remember that any young person who is considered not behaving in a gender stereotypical way could be the target of homophobic 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 a wealth of useful materials available.

### Whole School Approach

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.

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.

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.

### Contact for Further Information

Please contact: Carrie Yavuz, Educational Psychologist [carrie.yavuz@highland.gov.uk](mailto:carrie.yavuz@highland.gov.uk)

## **Appendix 1 - References**

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EHRC (2014), Equality Act 2010: Technical guidance for schools (Scotland)  
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It's Pronounced Metrosexual (2016) Genderbread Person v3.3  
<http://itspronouncedmetrosexual.com/2012/03/the-genderbread-person-v2-0/>

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The Intercom Trust (2012) *Cornwall Schools Transgender Guidance*. Cornwall: Intercom Trust

United Kingdom Government (2010) *Equality Act*  
[http://www.legislation.gov.uk/ukpga/2010/15/pdfs/ukpga\\_20100015\\_en.pdf](http://www.legislation.gov.uk/ukpga/2010/15/pdfs/ukpga_20100015_en.pdf)

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](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%20toolkit.pdf>

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

Gender Identity Research and Education Society [www.gires.org.uk](http://www.gires.org.uk)

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

Mermaids : Gender Identity Research and Education Society [www.gires.org.uk](http://www.gires.org.uk)

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/>

## **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.

**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 sense of whether they are male, female, both or neither.

**Gender Queer:** A term used to describe gender identities other than man and woman

**Gender Variance:** Gender Variance refers to practices or behaviours which may be deemed to fall out with the designated and contingent norms/expectations for a child or young person's biological sex. Gender Variance can be a useful term when considering both non-binary and transgender identities.

**Intersex:** Intersex describes variations in sex characteristics including chromosomes, sex hormones or genitals. Many individuals are not aware that they are intersex until puberty, they are having fertility issues or indeed at all during their life.

**Non-binary:** The term non-binary can refer to individuals who are uncomfortable with their assigned gender but are not clearly stating that they feel they are born into the wrong biological body or that they wish to be another gender. People who identify as non-binary may feel that they are a mixture of both male and female or that they are neither.

**Transgender:** Transgender is often used as an umbrella term. It is a term which is often used interchangeably with 'Gender Variance' however the meaning is different. Transgender has a narrower meaning and different connotations. A Transgender person may feel non-identification with the gender assigned to them at birth, and express a wish to be a different gender.

**Transsexual:** A Transgender person who lives full time in their true gender.