

Gender Identity Policy

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Preamble to the Policy

Equal Opportunities

The College shall comply with all statutory duties in respect of equal opportunities in the areas of sex, race, age, disability, sexual orientation, gender identity, religion, belief, pregnancy, maternity and paternity, marriage and civil partnership and the rehabilitation of offenders. The college shall also comply with the Human Rights Act 1998 and any subsequent enactments or modifications.

Sustainability

The college will comply with all statutory duties in respect of sustainable development by seeking to improve the long-term economic, social and environmental wellbeing of people and communities. This needs to be done in ways which promote social justice, equality of opportunity and which enhance the natural and cultural environment while respecting its limits.

Welsh Language

The Welsh Language Measure of 2011 ensures the equal status of the Welsh language alongside the English language. This law has created the role of a [Welsh Language Commissioner](#) and has introduced a number of Welsh Language Standards with which the College are under a statutory duty to comply. This includes conducting Welsh Language Impact Assessments for all new and revised policies.

1 Introduction

- 1.1 This policy demonstrates that all trans staff, learners or visitors, regardless of whether they have decided to go through the process of part or full gender reassignment and regardless of their formal legal standing, should be treated with equal respect. The policy aims to develop a culture and deliver services above the minimum standard of legal compliance that will lead to a more positive experience for all.
- 1.2 The College recognises that trans staff face distinct challenges which differ significantly from lesbian, gay and bi experiences. These could include physical spaces, such as gendered facilities, to direct discrimination and harassment based on gender identity. Creating a trans inclusive work and learning environment benefits all staff and learners. It enables and supports trans staff and learners to be themselves in the workplace and College environment, ensuring the College benefits from the experiences of this diverse community. It also promotes acceptance and knowledge among staff and learners who do not identify as trans.
- 1.3 Trans is an umbrella term for people whose gender identity and/or gender expression differs from what is typically associated with the sex they were assigned at birth and includes people who live permanently or temporarily in one or more genders. People under the trans umbrella may describe themselves using one or more of a variety of terms, including transgender. Other common terms are included in the Glossary of Terms in Appendix 1.

2 Our commitment

- 2.1 Coleg y Cymoedd shows its commitment to trans inclusion by recognising everyone is unique and that our thoughts and feelings are our own. When this policy refers to 'trans people', it has in mind people living with any number of gender identities. When it refers to 'gender identity', it covers both the fixed identity of people living in the gender of their birth, and the more fluid identities of many trans people, including non-binary.
- 2.2 Coleg y Cymoedd celebrates and values the diversity brought by its workforce and learner population and believes it benefits from engaging trans staff and learners.

- 2.3 The College will seek to eliminate all discrimination on grounds of gender identity, and also to create a working and learning environment based on good relations between all employees and learners, including trans people.
- 2.4 To this end, the College aims to include non-stereotypical images of diverse gender identities in materials which it produces. The aim is to create a positive inclusive ethos where issues of stereotyping can be discussed openly, with a shared commitment to respecting diversity and difference, and to encouraging good relations between people with any gender identity.

3 Legislation

- 3.1 The College undertakes to fulfil all the legal duties put upon it by the Gender Recognition Act 2004, the Equality Act 2010, the Human Rights Act 1998 and the Data Protection Act 2018.
- 3.2 The Equality Act 2010: The College will strive to ensure that all protected characteristics identified in the Equality Act 2010 are recognised and acknowledged. The Act provides protection to all that propose to, have started to, or have completed a process (or part of a process) to change their social role or gender expression. The Act does not require a person to be under medical supervision to be protected.

Trans people are protected from direct and indirect discrimination and from harassment on the basis of their gender identity.
- 3.3 The Gender Recognition Act 2004 (GRA) outlines a process by which trans people can apply for formal recognition that they have changed their gender role permanently and can obtain a gender recognition certificate (GRC). This means that they have their new gender status, 'for all purposes'; the person automatically qualifies for a birth certificate if the birth was registered in the UK. If a person has a GRC, information about the person's gender history is described as 'protected information', so it must not be passed on to anyone without the permission of the person concerned.
- 3.4 The Data Protection Act 2018: All records of the individual's personal life and medical history ('sensitive personal data') must be secured in line

with the Data Protection Act and should be 'kept for no longer than is absolutely necessary'.

- 3.5 The Human Rights Act 1998 underpins all equality legislation that relates to employers in the public sector, and those for whom they provide services. Article 8, in particular, requires trans and non-binary people to be treated with respect, dignity and fairness, and to protect their privacy in family life and correspondence.

4 Meeting our legal duties for employees

- 4.1 The College will not discriminate on grounds of gender identity in the way it recruits and selects staff.
- 4.2 The College will ensure that all of a trans person's rights are met, as are every employee's rights under the Equality Act 2010.
- 4.3 The College will ensure that trans members of staff have equal access to all forms of training and staff development.
- 4.4 The College will ensure that there is no discrimination on the grounds of gender identity in relation to dismissal of staff. In particular, shall a redundancy situation occur, it will ensure that gender identity and gender reassignment are not factors in the selection of those to be made redundant.
- 4.5 Harassment is viewed by the College as a very serious offence, which if proven may in certain circumstances lead to the dismissal of a member of staff, or if an employee is harassed by a learner, the expulsion of a learner, in line with appropriate disciplinary policy.
- 4.6 Trans employees will not suffer any form of victimisation, should they make a complaint of trans discrimination in the College.
- 4.7 The College will respect the confidentiality of all trans staff and will not reveal information without the prior agreement of the individual.

5 Meeting our legal duties for learners

- 5.1 The College will not discriminate on grounds of gender identity in the way it recruits learners.
- 5.2 The College will ensure that all of a trans person's rights are met, as are every person's rights under the Equality Act 2010.

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- 5.3 The College will ensure that all learners, regardless of their gender identity, have equal access to all aspects of their development.
- 5.4 The College will ensure that there is no discrimination on the grounds of gender identity in relation to the disciplinary process of learners which may result in expulsion.
- 5.5 Harassment is viewed by the College as a very serious offence, which if proven may in certain circumstances lead to the expulsion of a learner, or if a learner is harassed by a member of staff, may lead to the disciplinary of the staff member, in line with appropriate disciplinary policy.
- 5.6 Trans learners will not suffer any form of victimisation, should they make a complaint of trans discrimination in the College.
- 5.7 The College will respect the confidentiality of all trans learners and will not reveal information without the prior agreement of the individual.

6 Ensuring equality for trans people

- 6.1 The College values all staff and learners, and is committed to creating an environment in which all staff and learners feel equally valued and welcomed. The College aims to eliminate trans discrimination in its structures and practices as well as to encourage change in individual behaviour and attitudes, and ensure equality of opportunity and treatment for all staff and learners.
- 6.2 Trans abuse, harassment or bullying (e.g. name-calling, derogatory jokes, unacceptable or unwanted behaviour and intrusive questions) are serious disciplinary offences and will be dealt with under the appropriate procedure. Staff at all levels should be confident in challenging and confronting transphobia and transphobic language. Abusing someone because of their gender identity is a hate crime and may be subject to a police investigation.
- 6.3 Examples of transphobia include:
- Speculating about someone's gender identity is inappropriate in any context
 - Purposefully ignoring someone's preferred pronoun undermines their gender identity and sense of self
 - Disclosure of someone's trans history

- Inappropriate questioning

- Use of facilities

6.4 Anti-trans propaganda, in the forms of written materials, graffiti, music or speeches will not be tolerated. The College undertakes to remove any such propaganda whenever it appears on the premises.

6.5 Trans equality training will be offered as a means of understanding the diversities of trans people and the barriers they face.

6.6 The College recognises that there may be a continued need for trans people to access medical treatment, which may include periods away from work or study. The College will ensure that every provision will be made to support its employees and learners through the stages of gender reassignment. It accepts the need to undertake special measures to ensure genuine equality of access for trans learners and staff (see 7).

6.7 The College recognises that stereotyped gender roles can be harmful to trans people, who may feel constrained to behave in ways or work/study in areas that are traditionally considered appropriate for their registered sex at birth (or appropriate for their role after gender transition). Encouragement and support will be given to staff and learners who are trying to step outside the constraints of stereotypes in any area of the College's work.

6.8 The College allows anyone access to facilities, spaces and groups which align to their gender identity. Gender neutral facilities will be available to those staff and learners who require them.

6.9 Coleg y Cymoedd does not have a dress code that restricts employees' or learners' clothing or appearance on the basis of gender.

7 Transitioning at College

7.1 Transitioning is a term used to describe the steps a trans person may take to live in the gender they identify as. Each person's transition will involve different things. For some, this involves medical intervention such as hormone therapies and surgery, but not all trans people want or are able to have this. A medical intervention is not a pre-requisite and necessary step for transition. Transitioning might also involve things like telling friends and family, dressing differently and changing official documents.

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- 7.2 The College respects people's right to be open about their transgender identity and their right to keep this confidential. Any member of staff or learner who has taken the decision to go through the transition process will be fully supported by the College.

Please refer to the Transitioning at Work or Supporting Trans Learners guidance.

8 Provision for adjustment of records and issues of support and duty of care for trans people

- 8.1 The College will respect any request for anonymity. The College will seek to update its records to include the chosen name and sex identified by the individual at an appropriate time.

- 8.2 The College will provide support for staff and learners returning after a break caused by medical and surgical treatment.

- 8.3 For staff with significant medical and surgical treatment returning to work after an absence due to the above, the College will where possible treat sympathetically requests to job share, or to move from a full-time to a fractional contract for a specified period. When producing timetables for teaching staff or work patterns for support staff, the College will adopt a flexible approach which endeavours, whenever possible, to meet the individual needs of staff with medical and surgical treatment recuperation.

- 8.4 For learners with significant medical and surgical treatment returning to study after an absence due to the above, the College will look at reasonable adjustments to their course of study for a specified period and will adopt a flexible approach which endeavours, whenever possible, to meet the individual needs of learners with medical and surgical treatment recuperation.

- 8.5 Where appropriate and in accordance with regulations, the College will ensure that all records of trans staff and learners will not refer to a previous name, and any records made prior to a change of name or gender change will be updated once a Gender Recognition Certificate has been received by the College (see appendix 2 regarding record keeping)

- 8.6 Trans staff have a route to gaining confidential advice and support through Care First Employee Assistance Programme.

- 8.7 Trans learners may access confidential advice and support through the College Welfare and Wellbeing officers.

9. Raising Awareness and Celebrating Diversity

- 9.1 In order that its trans members feel they are in a safe and secure environment and can transition openly the College will:

- Include gender identity issues in equality training
- Consider trans issues in its published equality objectives
- Welcome and provide appropriate facilities for trans learner and staff groups/networks

- 9.2 The College will also use key events throughout the year to organise activities and communicate key messages around trans inclusion to our workforce and learner population. Trans specific events may include:

- Transgender Awareness week
- International Transgender Day of Visibility
- LGBT History month
- International Day against Homophobia, Biphobia and Transphobia.

10. Religion or belief

Sometimes, people who have particular religious beliefs, or cultural views about gender presentation, claim that their 'protected characteristic' of 'religion or belief' under the Equality Act allows them to refuse to work with, or share facilities with, a person who is trans. There is no hierarchy among protected characteristics; one protected characteristic is not more important than another. A person's religion or belief must, of course, be respected, but it must not be used to discriminate against another person because of that person's protected characteristic. Although a person has a right to their views, they do not have the right to act on those views by discriminating against a person who has another protected characteristic.

11.0 Division of responsibilities

- 11.1 Governors are responsible for ensuring that:

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- The College's strategic equality plan includes a commitment to equality for trans people
- Equality training, including trans issues, will feature as part of the College's strategic equality plan
- They are aware of the Corporation's statutory responsibilities in relation to gender identity legislation as an employer and service provider
- They receive and respond to monitoring information.

11.2 The Principal/Chief Executive and Senior Leadership Team are responsible for:

- taking the lead in creating a positive, inclusive ethos that challenges discriminatory behaviour on the part of the managers, staff or learners

11.3 Directors/Managers are responsible for ensuring that:

- They are aware of the College's statutory duties in relation to all legislation relating to trans people
- All aspects of College activity are sensitive to gender identity
- The procedures for the recruitment of staff and learners, and the promotion of staff, enshrine best practice in equal opportunities
- The College's publicity materials present appropriate positive and non-stereotypical messages about trans people
- Appropriate training and development is provided to support the appreciation and understanding of diversity, and where appropriate the college should train a member of staff in the implementation of this policy in order that they can act as a mentor for trans people.

11.4 Staff are responsible for ensuring that:

- They are aware of the College's statutory duties in relation to gender identity and other relevant legislation

- They challenge discriminatory behaviour by learners, placement providers, outside contractors or other members of staff
- The College and each of its individual staff confront discrimination, whether witting or unwitting, whenever it occurs.

12. Monitoring

12.1 The College is committed to ensuring that it is making progress in achieving equal treatment for employees and learners regardless of their gender identity. To ensure that progress is made, the College may undertake monitoring in aspects relating to gender identity.

12.2 The Equality and Diversity Committee will produce an annual equality and diversity report including quantitative and qualitative data together with recommendations for improvement. This report will be evaluated by the Senior Leadership Team and the Corporation Board and will be published accordingly.

13. Complaints

The College will seek to provide a supportive environment for those who make claims of discrimination or harassment. Staff or learners who feel they are being discriminated against on grounds of their gender identity by other members of staff or learners should raise the matter under the Bullying and Harassment Policy or Grievance/Complaints Procedure, which will, if the accusation is upheld, be treated as a serious disciplinary offence.

Please refer to the Bullying and Harassment Policy for the reporting procedure for incidents of a bullying and harassment nature. Further information can be found on the College Intranet.

14. Review and consultation

- 14.1 The policy will be made available to all employees and learners.
- 14.2 This Policy will be reviewed on a regular basis in accordance with legislative developments and within the guidelines of good practice in the College.
- 14.3 As part of the review the College will seek and take into account the views of stakeholders including learners, work placement providers, the local consultation/negotiating arrangements within the College, and appropriate equality bodies.

15. Links to other policies

This Policy should not be read in isolation, but cross referenced with other College policies and the policies agreed by the Corporation.

- Transitioning at Work Procedure
- Bullying and Harassment Policy
- Grievance/Complaints Policy
- Equality and Diversity Policy
- Leave of Absence Policy

Appendix 1: Glossary of terms

Acquired gender: The new gender of a person who has had their gender reassigned and/or legally recognised.

Cisgender: refers to a person whose gender identity is the same as the sex they were assigned at birth.

Gender: The overwhelming majority of people have a gender that accords with their anatomical sex.

Gender consists of two related aspects: gender identity, which is a person's internal perception and experience of their gender; and gender role, which is the way that the person lives in society and interacts with others, based on their gender identity.

Gender is less clearly defined than anatomical sex, and does not necessarily represent a simple 'one or the other' choice. Some people have a gender identity that is neither clearly female nor clearly male.

Gender dysphoria: A person with gender dysphoria may feel that they have a gender identity that is different from their anatomical sex. As a result, they may experience anxiety, uncertainty, or persistently uncomfortable feelings about their birth gender.

Gender identity: A person's internal, deeply held sense of their own gender. For trans people, their own sense of who they are does not match the sex that society assigns to them when they are born.

Gender expression: refers to the ways in which people manifest their gender, for examples through what they wear, how they speak and act.

Gender reassignment: A process which is undertaken under medical supervision for the purpose of reassigning a person's sex by changing physiological or other characteristics of sex.

Gender Recognition Certificate: A full Gender Recognition Certificate shows that a person has satisfied the criteria for legal recognition in the acquired gender. It will be issued to a successful applicant if he or she is not married in a civil partnership. From the date of issue, the holder's gender becomes the acquired gender for all purposes. An interim Gender Recognition Certificate will be issued to a successful applicant if he or she is married at the time of application. The interim certificate is issued to allow the applicant and his or her spouse to end their marriage easily. It has no legal significance beyond this use. When the marriage is ended, a full Gender

Recognition Certificate will be issued to the successful applicant. An employer does not need to see a GRC in order to recognise an employee's gender.

Non-binary: a term for people whose gender identities do not fit in to the gender binary of male or female

Sexual orientation: A person's emotional, romantic and/or sexual attraction to another person. An orientation towards persons of the same sex (lesbians or gay men) or an orientation towards a person of the opposite sex (heterosexual) or an orientation towards persons of the same sex and the opposite sex (bisexual).

Transitioning: a term used to describe the steps a trans person may take to live in the gender they identify as.

Transsexual person: A person who through the use of hormones and surgery takes on the characteristics of the opposite sex and lives permanently in the gender role appropriate to that sex. They do not undergo full genital reassignment surgery.

Transgender person: A person with gender dysphoria who feels a consistent and overwhelming desire to live their life in the gender that is opposite to that assigned them at birth.

Transvestite: The clinical name for a cross-dresser. A person who dresses in the clothing of the opposite sex. Generally, transvestites do not wish to alter their body and do not necessarily experience gender dysphoria.

Trans: A generic term generally used by those who identify themselves as transgender, transsexual or transvestite. The term should only be used as an adjective.

Appendix 2: Record keeping and DBS (formerly CRB) checks

Record keeping

The College should ensure that all documents, public references (such as telephone directories, prospectuses, web biographies) and employment details reflect the acquired gender of the person on request. This will prevent any breach of confidentiality.

Where documents have been seen and copies taken at the point of starting employment (such as a birth certificate) then every effort should be made to replace those with equivalent documents in the new name and gender.

In some instances, however, it may be necessary to retain records relating to an individual's identity at birth, for example, for pension or insurance purposes prior to obtaining gender recognition. However, once a person has obtained a Gender Recognition Certificate these **MUST** be replaced with new details.

Access to records showing the change of name and any other details associated with the individual's trans status, (such as records of absence for medical treatment) must be restricted to staff who need the information to do their work. They could include people directly involved in the administration of a process, for example the examining medical officer, or the person who authorises payments into a company pension scheme. They do not include colleagues, clients or line managers.

Once a person has obtained a Gender Recognition Certificate there must be no disclosure of this information, not least because it may be a criminal act subject to a fine. Breaches of confidentiality should be treated in the same serious manner as disclosure of personal details of any other member of staff (see below).

Trans people in employment may choose voluntarily to disclose information at a secondary level, for example, answering an equal opportunities questionnaire, or asking for support from a line manager. Again, strict confidentiality should be observed as further disclosure must not be made without the express permission of the transsexual person.

When can the employer make a disclosure?

The GRA defines information about a person's application for gender recognition and a person's gender history as 'protected information'. This means that if an employer or employee acquires the information in the course of official duties, it is a criminal offence to disclose it. It is not an offence, however, to disclose 'protected information' if the person cannot be identified or if the individual gives their consent.

Any records held on a trans employee in their birth gender and those held on the same person in their acquired gender should be kept confidential, with only specified staff having access to them. The Data Protection Act 1998 limits the purposes for which information may be kept, and when that information is no longer useful it must be destroyed.

DBS

The Disclosure Barring Service provides a service called 'Disclosure.' By providing wider access to criminal record information, the DBS helps employers in the public, private and voluntary sectors identify candidates who may be unsuitable for certain work, especially those positions that involve contact with children or other vulnerable members of society.

What is the clearance procedure?

To enable it to do its job, the DBS has to be aware of any previous names and/or gender of prospective employees. However, the bureau has devised a process which allows trans people to pass details onto the DBS without first revealing them to the employer.

What do trans applicants have to do?

The DBS has developed a separate application procedure, which allows trans applicants to exclude previous names from the Disclosure Application form. However, applicants will still be required to send details of their previous identity in a separate letter directly to the 'Sensitive Casework Manager' within the DBS. The DBS will then check the data sources held against both current and previous names.

This avoids the need for disclosure about gender history or former name to the employer or voluntary body at the application stage, but allows the DBS to carry out the requisite checks against any previously held identities.

It should be noted that where a conviction or (in Enhanced Disclosure cases) other relevant information has been recorded in a previous name, this will be revealed on the Disclosure and as such details of any previous identity may be revealed. Where there are no convictions recorded, the details of any previous names that have been provided directly to the DBS will not be revealed on the Disclosure.

Trans applicants wishing to take advantage of this separate procedure should contact the DBS for further detail

Appendix 3: Further resources and trans organisations

- **All about trans:** engages media professionals to encourage a greater understanding of trans people in the media and representation

www.allabouttrans.org.uk

- **Stonewall Cymru Information Service:** For all questions on issues affecting lesbian, gay, bisexual and trans people in Wales.

08000 50 20 20

cymru@stonewallcymru.org.uk

www.stonewallcymru.org.uk

@StonewallCymru

Stonewall's What's in my Area

Stonewall's Stay safe on-line

- **The Gathering:** A safe Christian space for LGBT+ community in Cardiff

www.thegatheringcardiff.org

- **Dyn Project:** Provides support to heterosexual, gay, bi and trans men who are experiencing domestic abuse

www.dynwales.org

- **Mermaids:** provides support for families and children with gender identity issues

www.mermaidsuk.org.uk

- **Gender Identity Research and Education Society (GIRES):** produces resources and training with the overall aim to improve the lives of gender non-conforming people.

www.gires.org.uk

- ***Gendered Intelligence***: specialises in supporting trans young people aged 8 – 25 and working with the trans community.

www.genderedintelligence.co.uk

- ***Reporting Hate Crime***

999 in an emergency

101 to speak to Police in your area

Report what's happening on line www.reporthathe.victimsupport.org.uk