



# Transgender and Gender Questioning Policy

Policy Type	Statutory
Regulation	Equality Act 2010/ Gender Recognition Act 2004
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# 1 Related Information

## 1.1 Availability of Statutory Policies

All statutory policies are available on the School's website.

## 1.2 Statutory Guidance

This statutory policy has been reviewed in accordance with the following guidance:

Equality Act 2010 Gender Recognition Act 2004
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## 1.3 Supporting Documents

The following related information is referred to in this policy:

Admissions Policy
Anti-Bullying Policy
E-Safety Policy
Equal Opportunities Policy
Equal Opportunities Policy for Staff
Safeguarding Policy
Sex, Relationships and Health Education Policy
Staff Employment Manual

## 1.4 Terminology

**Head**, where not explicitly defined, means either the Head of the Girls' School or the Head of the Boys' School.

**Parents** includes one or both parents, a legal guardian, or education guardian.

**School** means Haberdashers' Aske's Elstree Schools.

**Student** or **Students** means any student or students in the School at any age.

# 2 Introduction

This policy is drawn up to support transgender and gender questioning children and young people. It is applicable to all current and prospective Students and will be reviewed by Students, staff, Parents and Governors. It aims to build on best practice already in place to meet its legal obligations under

the Equality Act 2010. Additionally, it aims to meet its obligations under the Gender Recognition Act 2004.

### **3 What do we mean by Transgender and Gender Questioning children and young people?**

The umbrella terms transgender and trans are viewed by many people as being acceptable terms to describe people whose sense of their gender or gender identity is seen as being different to typical gender norms. However, wherever possible individuals should be given opportunities to say how they identify or describe themselves rather than labels being ascribed to them. Children and young people may question their gender identity for a range of reasons, and this does not mean they are definitely transgender or will go on into transition. It is important to validate the young person's identity as it is now and support any changes that may arise as they come to explore their identity further. Gender identity concerns one's internal sense of self (male, female, neither or both) and how one chooses to express oneself. This is completely different from sexual orientation which concerns who one is sexually attracted to. Please see the 'Glossary of Terms' at Appendix 1.

We aim to:

- Support the exploration of the challenges posed by the specific needs of transgender children and find solutions in the best interest of the Student and the wider School community
- See the transgender child or young person as an opportunity to enrich the School community and to challenge gender stereotypes and norms on a wider scale
- Provide support and listen to the child or young person and their Parents and, wherever possible, follow their lead and preferences
- Support the health and wellbeing of transgender Students, supporting them through transition and enabling them to achieve their potential in their study and work
- Provide an individual action plan following discussion and agreement with the Parents of the Student who announces their intention to transition and the Student themselves
- Work on challenging and preventing sexism, transphobia, homophobia and biphobia and ensure that the School community is aware of these in terms of curriculum content and the challenging of prejudice and bullying (as laid out in the School's Anti-Bullying Policy)
- Create an inclusive environment, demonstrating respect to the transgender Student, as well as their family members and friends, in terms of:
  - their gender identity
  - their right to work and study with dignity
  - their name and personal identity
  - their privacy and confidentiality.

## **4 Legislation**

### **4.1 Data Protection Act 2018**

The School will comply with its statutory obligation under data protection legislation in force from time to time.

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

The Gender Recognition Act 2004 contains provisions for the process by which a person can obtain a Gender Recognition Certificate, in order to amend their original birth certificate to reflect their acquired gender. This can only occur after a person reaches 18 years of age but is something that many younger people may aspire to.

### **4.3 Equality Act 2010**

The Equality Act 2010 ensures legal protection against discrimination, harassment and victimisation (direct or indirect) for everyone under the nine protected characteristics defined in the Act, one of which is Gender Reassignment (also known as Transgender).

Part 6 of the Equality Act 2010 specifically refers to schools and young people and provides that it is unlawful for the 'responsible body' of a school to discriminate against, harass or victimise a Student or prospective Student:

- In relation to admissions
- In the way it provides education for Students
- In the way it provides Students access to any benefit, facility or service
- By excluding a Student or subjecting them to any other detriment.

This means that it is unlawful for the School to treat Students less favourably because of their gender reassignment. The School will therefore have to factor in gender reassignment when considering its obligations as part of its wider equality duty.

The Equality Act 2010 (Part 2: Chapter 1: Section 7) 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. The Act applies to employment, education and a range of other areas where discrimination may take place. In order to be protected under the Act, a Student 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.

The School will also consider the following guidance and best practice resources:

- The Equality Act 2010 and Schools, DfE (May 2014)
- Keeping Children Safe in Education (KCSIE), DfE (September 2019)
- Gender Reassignment Discrimination, Equality and Human Rights Commission (2016), [www.equalityhumanrights.com/en/advice-and-guidance](http://www.equalityhumanrights.com/en/advice-and-guidance).

## **5 Confidentiality**

The School will respect the confidentiality of all transgender Students and will not reveal sensitive personal information without prior agreement of the individual except to protect their vital interests.

If a child or young person notifies the School about their intention to transition during their education, the School will agree with them (if it is in accordance with their wishes) the date from which their details will be changed on records, as far as is possible. A transgender Student's file should reflect their current name and gender. Any material related to that Student's transgender status will be stored confidentially and no records will be changed without the Student's permission.

There may be situations in which a Student identifies as transgender but does not wish this information to be disclosed more widely. If a Student has sufficient age and understanding to provide instructions about their status then, until they have given consent for information to be shared their legal name and gender assigned at birth should be used. However, the School's legal obligation to disclose a Student's status in accordance with its safeguarding duties will prevail over the Student's own request.

On receipt of a Gender Recognition Certificate the Student has the right to request all references to their former name and gender to be removed and replaced with their current name and gender. The School will update all records promptly.

## **6 Safeguarding and Child Protection**

The School is clear that being transgender does not in itself constitute a safeguarding risk, however KCSIE (2019) recognises that gender-based violence is a specific safeguarding issue and this can include violence towards transgender people.

Students should know that they can talk to members of staff about their gender identity in confidence through appropriate pastoral staff within the School, and the counselling services that are available to all Students.

Staff should treat Student transgender issues with sensitivity. If a member of staff considers that a Student is in immediate danger or at risk of harm referral should be made to children's social care and/or the police immediately. Please see the School's Safeguarding Policy for further details on the formal process for referral where this is appropriate.

## **7 Admissions and School Attendance**

The School accepts applications for, and admits Students irrespective of their gender reassignment, race, disability, sexual orientation, pregnancy or maternity, religion or belief or special educational needs and will not discriminate on these grounds in the terms on which a place is offered. The School will treat every application in a fair, open-minded way.

Every application will be considered on its merits within the School's criteria for selection on grounds of the Student's ability and aptitude as set out in the School's Admissions Policy. However, this is subject to the School being able to continue to meet its charitable objects. The School's Admissions Policy reflects the School's approach towards equal opportunities and is consistent with this policy.

The School will consider requests for absence requests for any treatment or other external appointments in line with their absence policy. It is possible that the young person may be accessing support from outside of School so provision must be made in order for the Student to be absent from School, but confidentiality must be maintained at all times when complying with absence procedures. Sensitive care will be taken when recording the reason for absence. The Student may need time off for a medical appointment and it should be recorded as a T code rather than being off sick.

While the School will comply with its legal obligations and will take all reasonable steps to accommodate transgender Students, it reserves the right to review a Student's ability to continue to attend the School in view of the welfare and needs of the Student and the School community as these develop over time.

If a transgender Student expresses a desire to transfer to the Boys'/Girls' School, the School, in consultation with the Student and their Parents, will contact the Head and initiate discussion about a possible transfer. This will be subject to the School admissions criteria and the availability of a place.

## **8 Guidance, Support and Training for Staff**

Guidance, support and training will be provided to staff to ensure that the School's obligations to transgender Students are met.

Individual staff (academic and support) will be encouraged to attend appropriate training session to be able to support the needs of the transgender Student and the wider School community.

Members of staff may be required attend any relevant, multi-agency meetings about the transgender Student.

## **9 Notes on Guidance for Accommodating the Needs of Transgender Students**

As with common practice for all the School's Students, the School will aim to provide a safe and nurturing environment for transgender Students in which they can:

- Feel comfortable with being themselves and valued for who they are
- Feel included within the whole School community
- Have access to resources and information relevant to them
- Know how to access relevant support services both inside and outside School.

Outlined below are some more practical points to ensure that the School has thought about the possible transgender related issues facing a transgender Student and ensuring that their needs are being met.

## **10 Curriculum**

The School will ensure the curriculum provides opportunities to challenge stereotypes, including those based on gender, and avoids making assumptions about sex, gender, gender identity and sexual orientation. The School will closely monitor all areas of the curriculum and resources to ensure that they do not contain gender stereotypes or transphobic material. The School will aim to foster a positive sense of gender identity and develop an understanding of transgender issues and prevent transphobia. LGBTQ issues should be explicitly addressed in PSHCE lessons.

## **11 E-Safety**

It is likely that young people questioning their gender identity will use the internet and social media to search for information and share experiences. It is important to reinforce the principles of e-safety and to signpost access to relevant safe websites with accurate information. Transgender Students, in line with the E-Safety policy of the School, are encouraged to report to a member of staff any concerns they have arising from the use of the internet. IT systems should be checked regularly to ensure age-appropriate websites on trans issues are not blocked.

## **12 Language**

Members of the School community should strive to use the preferred pronoun for a transgender child, young person or adult. In addition, staff should think carefully about the language they use and when possible, attempt to use gender neutral language which does not reinforce a binary approach to gender (i.e. there are just males and females).

## **13 Name Changes**

Changing name and gender identity is a pivotal point for many transgender people. If a transgender Student wishes to have their personal data recognised on School systems, this should be supported and will feed into letters home, reports, coach information etc where it is possible to do so. Furthermore, the change of name and associated gender identity should be respected and accommodated in the School.

In regard to schools recording this data, section 4.2.7 of the 'School census 2014 to 2015' (2015) Department for Education guidance indicates that the gender of a Student is recorded in the format of male or female. However, in exceptional circumstances, a school may be unsure as to which gender should be recorded for a particular Student. Where this occurs, gender is recorded according to the wishes of the Student and/or Parent. It remains open for the School to amend the gender of any Student, within their own management information systems, at any time.

## **14 Exam Certification**

Entry for exams and exam certificates are more complex. The Joint Council for Qualifications requires that centres must enter candidates under names that can be verified against suitable identification such as a birth certificate, passport or driving licence. Once a result is accredited it will need to be linked with a Unique Student Number (UPN) or Unique Learner Number (ULN) which existed in the School census information submitted in January of the exam year. UPNs and ULNs are only linked with legal names (the name in which a Student or student arrives in education for the first time; this is often the name on their birth certificate), not preferred names.

In order to use a chosen or preferred name on an exam document a Student will need to have changed their name by deed poll. A person under 16 years cannot change their name legally without the consent of all those with parental responsibility and simply changing name does not change a legal gender identity. In order to change a name on other official documents such as a passport for those over 16 it might be necessary for evidence of change of name to be produced: there are two main ways in which this can be done, by deed poll or by statutory declaration.

More information on changing names on birth certificates can be found at <https://www.gov.uk/change-name-deed-poll/change-a-childs-name>.

The School will ensure a strategy is agreed with the Student and their Parents, and then agreed with the various exam boards prior to starting the process to accredited courses. Exam boards may be very experienced in Gender Identity issues, so they may be able to guide the School through the process. It is possible for most documents to be changed to reflect the chosen name or gender identity of the young person, even if a Gender Recognition Certificate has not been issued. Changing details on a birth certificate is not, however, possible until a Gender Recognition Certificate has been issued.

## **15 Sports and Physical Education**

Sports and Physical Education is an integral part of the School's curriculum incorporating the physical and mental well-being of Students. A young transgender person has the same right to Physical Education as other young people. With regard to transgender Students, there should be reasonably few, if any, issues regarding participation within the sports of their acquired gender.

There may be sports where, as puberty develops, male to female (M2F) transgender participants may have a physical advantage over other Students but this should not present a problem within a carefully and sensitively managed lesson context. The issue of physical risk within certain sports should also be managed properly within the lesson context rather than preventing young transgender people from participating (which would be discriminatory).

If a Student is binding their chest, they should be monitored carefully during particularly physical activities and in hot weather. There is a chance that the binding could cause discomfort or even impair breathing. Short breaks from activity could be offered discretely.

When competing at another school or outside venue, School staff must try to ensure there is appropriate sensitive provision available. The School may also refer to the relevant governing sporting body for further advice and guidance.

## **16 Swimming Lessons**

The Student should be given the choice as to whether they wish to partake in swimming lessons or not. If the transgender Student wishes to partake in swimming lessons, then a risk assessment of the changing facilities and appropriate swimwear should be completed. There must be careful consideration, in consultation with the Student and in line with the health and safety policy of the leisure centre or swimming pools health and safety procedures. For example, it may be against health and safety regulations to wear a t-shirt in the swimming pool and therefore would be more appropriate for a F2M Student to wear a swimsuit or similar.

## **17 Use of Toilets and Changing Facilities**

There is the potential that transgender Students may find themselves in vulnerable situations such as a toilet or changing room where they could fall victim to unwanted attention, that could (if escalated), lead to sexual bullying, assault or other physical or emotional harm, but equally, that they are seen and treated as a member of their acquired gender. Transgender Students may prefer to use the School's gender-neutral facilities which are labelled appropriately.

## **18 Safe Space**

Many young transgender people express the need for a safe space where they feel they can be themselves. The School's LGBTQ society will offer a safe and supportive environment. The Designated Safeguarding Lead will speak to the transgender student to ascertain if there is a member of staff the student feels particularly comfortable with. This may or may not be the Designated Safeguarding Lead. This designated member of staff will meet regularly with the transgender student and the transgender student's family to create an action plan for the student which is reviewed on a termly basis or as required.

## **19 School Uniform**

Transgender Students will be expected to adhere to the School's policy on School uniform and may wear trousers or skirts if preferred.

## **20 School Visits**

Learning about different cultures and lives and taking part in activities may lead to overnight stays, both at home and abroad. Issues may arise for transgender Students, but this must not mean transgender Students cannot be included on the visit. Consideration should be given in advance of any additional needs to ensure the transgender Student is fully included. The sleeping arrangements will be considered before a visit is undertaken; it is possible that the transgender Student would prefer to have a separate room etc. Each individual case and visit needs to be considered separately and discussions will happen well in advance, with all appropriate bodies, linked to the accommodation available. Where a transgender Student is travelling abroad as part of a visit the School will consult with the relevant authorities to obtain guidance around any cultural and/or social issues which may require further consideration.

## **21 Vaccinations**

Transgender Students should be able to opt out of gender specific vaccinations unobtrusively if they do not feel they are appropriate.

## **22 Vulnerability**

Being transgender is not a mental health issue but distressing feelings relating to gender identity mean that some transgender Students may experience mental distress. Statistically there is a higher incidence of bullying, self-harm and suicide attempts in transgender Students. The School should be alert to this vulnerability and offer appropriate support through the pastoral team, counselling or information about therapy.

## Appendix 1 - Glossary of Terms

**Binding** – a F2M adolescent that is developing breasts may strap down their chest so that it is less obvious. This can be hot, uncomfortable and restrictive but very important to their psychological and emotional wellbeing. It might make certain PE lessons difficult for them to participate in and could sometimes lead to breathing difficulties, skeletal problems and fainting.

**F2M** – Female to Male, a person that was identified as Female at birth but came to feel that their acquired gender is actually Male.

**Gender** – the way that a person feels about themselves in relation to their physical and mental self; the basis of their identifying as male, or female, or neither, or either, or both.

**Gender Recognition Certificate** – an official document presented by a Gender Recognition Panel that enables all official documents and records (including birth certificate) to be amended to the acquired gender of the individual thereby providing full legal recognition.

**Gender Role** – the social role/interaction with others, which gives expression to the inner gender identity and reinforces it.

**M2F** – Male to Female, a person that was identified as Male at birth but came to feel that their acquired gender is actually Female.

**Packing** – a F2M person may wear a prosthetic item in their pants that will give a “bulge” in their trousers so as to appear more male.

**Sex** – the way a person’s body appears, sometimes wrongly, to indicate their gender.

**Transgender** – a person that feels the assigned gender and sex at birth conflicts with their acquired gender.

**Transsexual** – a Transgender person who lives fulltime in their acquired gender.

**Acquired Gender** – the gender that a person truly feels they are inside.