

Habs

HABERDASHERS'
ELSTREE SCHOOLS

Transgender and Gender Questioning Policy

Policy Type	Statutory
Regulation	Equality Act 2010/ Gender Recognition Act 2004
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Next Review	Summer 2023

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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 Limited as Trustee of Haberdashers' Aske's Charity trading as Haberdashers' Girls' School **and/or** Haberdashers' Boys' School, as now or in the future constituted (and any successor).

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 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 to 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 separate from sexual orientation which concerns who one is sexually attracted to. Please see the 'Glossary of Terms' at Appendix 1.

We aim to:

- Challenge gender stereotypes and norms within the School and on a wider scale
- Balance the interests of both the transgender or gender questioning individual and the wider School community when it comes to finding solutions to any challenges posed by specific needs
- 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 or gender questioning Students, working to enable them to achieve their potential in their engagement in the life of the School
- Provide an individual action plan following discussion with any Student who announces an intention to transition – socially or otherwise, and their Parents
- Continue to work on challenging and preventing sexism, transphobia, homophobia and biphobia and ensure that the School community is aware that these forms of discrimination are unacceptable and how to challenge and report them
- Create an inclusive environment, demonstrating respect to the transgender or gender questioning Student, as well as their family members and friends, in terms of:
 - their gender identity
 - their right to fully engage in the life of the School 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.

5 Confidentiality

The School will respect the confidentiality of all transgender and gender questioning 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, socially or otherwise, during their education, the School will agree with the Student, in consultation with their Parents, the date from which their details will be changed on records, as far as is possible. A transgender Student's records should reflect their preferred 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 or is questioning their gender 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 their wishes, in consultation with their Parents, will be adhered to. 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 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 has safeguarding concerns about any Student, they must record their concern via MyConcern or, if they believe a child to be at immediate risk of harm, directly and immediately to the DSL or a Deputy DSL. Please see the School's Safeguarding Policy for further information.

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 for any treatment or other external appointments in line with their absence policy, complying with requests or confidentiality. Sensitive care will be taken when recording the reason for absence.

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, including on school policy, national guidance and best practice, is provided to all staff to ensure that the School's obligations to transgender and gender questioning Students are met.

Individual staff (academic and support) may be asked to attend appropriate training sessions to be able to support the needs of the transgender Student and the wider School community.

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 issues the School will consider to ensure its aim of balancing the best interests of an individual transgender or gender questioning Student and those of the wider school community.

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 are explicitly addressed in PSCE(E) 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.

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, where possible, attempt to use gender neutral language which does not reinforce a binary approach to gender (i.e. suggesting that there are only ‘males’ and ‘females’), or reinforce and further gender stereotypes.

13 Name Changes

Changing name and gender identity is a pivotal point for many transgender people. If a transgender Student wishes to have their name and/or gender 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 should be able to guide the School through this 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, viewed as essential to the physical and mental wellbeing 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 few 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, Physical Education staff should be made aware so that the Student can 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 will 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. 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

Gender questioning or transgender Students may find navigating the use of traditionally single-sex spaces a potential source of anxiety. There is also the potential that use of these spaces might put transgender or gender questioning Students at risk of unwanted attention, that could lead to child-on-child abuse or other physical or emotional harm. 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. Whilst we hope that all Students feel safe and included at all times in school, the School's LGBTQ society in particular offers a safe and supportive environment for students questioning their sexuality or gender identity. As with any other Student whose particular circumstances might make them more vulnerable or in need of support, the pastoral team will ensure that the Student has the opportunity to identify an individual member of staff with whom they feel particular comfortable. Meetings with this designated member of staff could then form part of the Action Plan created in discussion with the Student and their Parents.

19 School Uniform

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

20 School Visits

Transgender or gender questioning students must be given the same opportunities for overnight and/or overseas trips as their peers. Consideration will be given in advance of any additional needs to ensure the transgender Student is fully included. Sleeping arrangements will be considered before a visit is undertaken, following investigation into what is available at the accommodation provider and discussion with the Student. Each individual case and visit will be considered separately. 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 are 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 suffering from gender dysphoria may mean that transgender Students may experience distressing feelings. Statistically there is a higher incidence of child-on-child abuse, self-harm and suicide attempts for transgender Students. The School is alert to this vulnerability and will offer appropriate support through the pastoral team, counselling or signposting to external sources of support.

Appendix 1

Glossary of Terms

Binding – a F2M adolescent who is developing breasts may strap down their chest so that it is less obvious. This can be hot, uncomfortable and restrictive but 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 for whom the sex they were registered as 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.