

EMPLOYMENT POLICY

Transitioning in the Workplace

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Appendix 1 Colleague Guide

1. Scope and Purpose

- 1.1 Lothian is committed to building a diverse workforce where everyone can truly be themselves. As part of our commitment to Diversity and Inclusion, and compliance with the Equality Act (2010), we will strive to ensure that all employees (including transgender people, employees associated with transgender people and people perceived to be transgender) are treated with dignity and respect, and we will not tolerate any discrimination, harassment, bullying or victimisation during recruitment or any stage in the employee lifecycle. This relates to all transgender people, in line with their own identity and includes those with non- binary identities, regardless of whether or not that person has transitioned legally or surgically.
- 1.2 The Equality Act 2010 prevents the discrimination, harassment and victimisation of a person whose gender identity differs from the gender assigned at birth. To be protected, the transgender person does not need to have undergone any specific treatment or surgery to change from their birth sex to their preferred gender (as this is a personal process rather than a medical one) and this protection is provided at any stage in their transition journey, from proposing, undergoing, or having completed the reassignment of their gender.
- 1.3 The purpose of this policy is to set out a framework for how Lothian will support employees who wish to take steps to change the gender identity they were assigned at birth, or have already done so.
- 1.4 This policy applies to all Lothian Group employees.

2. Our Commitment

- 2.1 Lothian recognises that the period of transition can be very complex and difficult for the individual, and will act in a supportive and sensitive way to ease any transition period.
- 2.2 Lothian aims to create an inclusive trans-friendly culture, workplace and learning environment, free from discrimination, harassment or victimisation, where all transgender people are treated with dignity and respect.
- 2.3 No member of the Lothian Group, its visitors or contractors should be treated less favourably, whether before, during or after their employment at, or their visit to, Lothian on the grounds of gender identity or reassignment.

3. Transgender Definitions

3.1 Understanding the terminology relating to transgender people is important as the inappropriate use of language can cause offence and distress and undermine Lothians' effort to support transgender employees.

3.2 In this policy 'Transgender' is used to refer to the following groups:

- People who are taking or have taken steps to change the gender identity they were assigned at birth. This includes people covered by the Equality Act definition: "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 their sex."
- People who do not identify with a permanent binary gender identity, including those who identify in other ways, such as genderqueer, gender variant, non-binary or agender. These terminologies are evolving and highly personal and this list is not exhaustive.

4. Legislation

4.1 Transgender people are protected by two key pieces of legislation:

1) The Equality Act 2010 - Gender reassignment is one of the protected characteristics within The Equality Act 2010. The definition of gender reassignment within the Act gives protection from discrimination to a person who has proposed, started or completed a process to change their gender. The Act also protects:

- Transgender people who are not under medical supervision;
- People who experience discrimination because they are perceived to be transgender people; and
- People from discrimination by association because of gender reassignment.

2) The Gender Recognition Act 2004 - This Act allows transgender people to obtain a Gender Recognition Certificate to change their gender legally. It is not necessary for an individual to obtain legal recognition of their affirmed gender to be protected by The Equality Act 2010, but the Gender Recognition Act 2004 allows transgender people to gain legal recognition of their affirmed gender by registering for a Gender Recognition Certificate (GRC). Not all transgender people apply for a GRC. There may be a number of reasons for this including health, personal and family reasons.

3)

5. Meeting the Needs of Transgender Employees

- 5.1 Lothian aims to anticipate and respond positively to the needs of prospective and current employees in relation to gender identity issues, providing a professional and consistent environment so that all transgender members of Lothian feel welcome, safe, valued and supported.
- 5.2 Lothian recognises that the process of an individual's transition is unique and that the duration of any transition will vary significantly depending upon the individual and their personal choices.
- 5.3 Lothian will allow for reasonable time off for an employee to receive medical or other treatment in relation to their gender reassignment.
- 5.4 Lothian supports all transgender colleagues and encourages employees to come forward for support and advice regardless of their gender or transgender identity.

6. Gender Reassignment (“Transitioning”)

What is gender reassignment?

There are people whose gender identity does not match their appearance and/or anatomy. This is sometimes called gender dysphoria. People who decide to adopt a different gender to the one assigned at birth are known as ‘transgender’ people. This can include non-binary people, who do not identify as either male or female.

Some transgender people want their bodies to match their gender identity. The process is known medically as ‘gender reassignment’ or ‘gender transition’. However, the term transgender also includes persons who cannot, or have decided not to, undergo medical treatment.

How is gender transition achieved?

Transition is achieved by the person undergoing gender reassignment. The process consists of counselling, followed by medication to alter the body and physical characteristics. During the early part of the process it is possible the individual may display characteristics of both genders. The final stage for some individuals is to undergo surgery. Not everyone going through gender reassignment undergoes surgery; it is a personal choice and not a key criterion in the process of gender change.

Indeed, much of the transition process is more about social aspects such as name, clothes, appearance and personality rather than the medical aspects that are often associated with it.

At some point the person will want to start to live full time in their 'new' gender and their name and other records (such as their driving licence, birth certificate and passport) may be formally changed. The person is expected to live and work in their new gender role for a minimum period of one year (in Scotland) prior to any irreversible surgical intervention. This period is often referred to as the 'real life experience' or 'real life test'.

Each individual has the right to choose how they shape their future lifestyle and the choices they wish to make. The most important role that we can play as the employer is to offer support and guidance at any or all stages of an individual's journey and to facilitate any procedures or processes as appropriate.

7. Identification

Name changes

A transgender person can ask their employer to change their full name, appropriate pronouns and gender on their personnel/organisational records simply by notifying them of:

- their intention to transition, and
- their name change (this is usually done by providing a Statutory Declaration of Name and Gender Change, but this is not a legal requirement).

However, some transgender people do not choose to change their name immediately or at all. They may wish to use a shortened version of their name or a nickname. If this is the case it is preferable that employees are advised of the preferred name in advance so that the legal name is not used in error. Once a transgender person has made known their chosen name, this name should be used in all circumstances, rather than their birth name.

A person who identifies with a certain gender, whether or not they have had surgery, should be referred to using the pronouns they prefer (this could be he, she or they).

Identification

A full GRC gives a transgender person the means to obtain a new birth certificate but other official identification and services reflective of their preferred gender can be gained without a full GRC including a passport, driving licence and the ability to change bank details.

Lothian has no right to ask for or see this certificate. However, we may ask for a statutory declaration of name change or other official identification. It is important to recognise that there can be significant cost implications in changing identity documentation and this may not be accomplished all at once. Lothian should be flexible wherever possible and very clear about what information is required as well as any alternatives that can be offered.

From a payroll and pensions administration perspective, HMRC and pension providers are legally required to maintain records based on an individual's legal gender, which is defined as the gender recorded on their birth certificate unless a GRC has been issued. Therefore, for HMRC and pension reporting purposes, Lothian is legally required to report the gender in alignment with legal documentation to remain compliant with statutory duties.

8. Support During Transition

When an employee decides to embark on their transition there are a number of work-related matters that need to be considered and agreed on.

It is a matter of choice who the employee nominates as their main point of contact throughout their transition but it is recommended that the contact person works with the employee to agree an action plan to cover the period of their transition. It is imperative that confidentiality is maintained at all times, for employees who may be going through the transition. The right to complete confidentiality also applies to transgender colleagues who have already undergone gender reassignment.

The employee and their main contact should write an action plan together for managing the transition. This will include agreeing dates of transition and communication plans, Lothian being guided at all times by the individual's preferences. Under no circumstances should any communication or actions be taken without the explicit consent of the individual. These action plans must be kept strictly confidential and any records destroyed after the person has successfully transitioned.

A guidance document has been produced to help managers support transgender

employees and this contains further information on creating an action plan. The HR Team can also provide guidance and support.

9. Practical Support

Time off

Transgender employees will likely require time off work for a wide variety of medical appointments. Appointments to see a specialist may involve travelling long distances. The amount of time off required following surgery will vary greatly from one to 12 weeks depending on the nature of the surgery and the physical demands of the person's work.

In all cases the employee should not be treated any less favourably than if they were absent due to sickness or injury and any time off will not be counted towards absence trigger points.

Similarly there may be a need for Lothian employees who are close relatives of transgender people, to take time off to care for them in the same way this would be necessary for parents or carers in other circumstances. There should not be any less favourable treatment in such cases.

Single sex facilities

Following recent legislation issued in April 2025, it was clarified that under the Equality Act 2020:

- A “woman” is a biological woman or girl (a person born female)
- A “man” is a biological man or boy (a person born male)

If someone identifies as transgender, they do not change sex for the purposes of the Act, even if they have a GRC.

This has implications for the obligation on workplaces to provide single-sex facilities. Based on the updated guidance, a transgender person should have access to ‘men-only’ and ‘women-only’ areas according to their biological sex. Lothian (usually the main contact) and the individual will discuss and agree on a case-by-case basis what can be done to ensure compliance with legislation and accessibility, taking into account the individual needs, the facilities available and the legal guidance.

Records

If a transgender employee is transitioning while working for the business and following their statement of intent to transition, their employee record should be changed at a

mutually agreed time to reflect their preferred gender and name. This must include all paper records which must be replaced with a full set of new documents in the new name and gender. No records should be changed without the permission of the employee concerned. With the exception of degree certificates and pension documentation, a written note of intent to transition is sufficient for the gender and name on staff records to be changed.

References

References for current or former employees who have transitioned must make no reference to the person's former name or gender, and must use the appropriate pronoun.

References should always be provided by HR. Any manager receiving reference requests should forward them to the HR team for processing at HR@lothianbuses.co.uk.

Recruitment

Where formal documents are required before commencing employment, confidentiality should be emphasised when asking for a birth certificate or passport as if the person has not yet been issued with new identification, the birth certificate will clearly show the person was born with a different name and gender. The same situation can arise with a passport from another country that does not have the same legislative provision as the UK. Therefore, some flexibility may be required in what is asked for.

Pensions

Record changes for pensions differ slightly and employees who are in the pension scheme will need to send their birth certificate to the Payroll Manager to ensure their gender is changed on pension records. Only those with a full GRC can have their pension records changed by HMRC.

10. Confidentiality

- 10.1 Lothian will respect the confidentiality of transgender people and will not reveal information without the prior agreement of the individual.
- 10.2 If an individual notifies Lothian of their intention to transition during their employment, Lothian will agree with them what steps should be taken to facilitate and support their transition. A transgender person's file will reflect their current name and gender. Any material that needs to be kept related to the person's transgender status, such as records of absence for medical reasons, should be stored confidentially. No records will be changed without the permission of the employee concerned.

11. Creating an Inclusive environment

11.1 At Lothian, this means demonstrating respect for transgender people, as well as individuals associated with transgender people such as partners, spouses and other family members, in terms of:

- their gender identity;
- their right to work with dignity;
- their use of Lothian facilities;
- their name and personal identity; and
- their privacy and confidentiality.

11.2 This provision also includes people who are perceived to be transgender, irrespective of their actual gender identity.

12. Protection against Harassment and Bullying

12.1 Lothian recognises it is the right of every individual to choose whether to be open about their gender identity and history. To 'out' someone without their permission may amount to a form of harassment and possibly a criminal offence.

12.2 Transphobic bullying and harassment will not be tolerated and will be regarded as grounds for disciplinary action, which may include dismissal. Such behaviour will be dealt with under Lothian's Disciplinary Policy.

13. Useful Contacts

Stonewall Scotland – campaigns for equality and justice for lesbian, gay, bisexual and transgender people.

Website - <https://www.stonewallscotland.org.uk/>

Scottish Trans Alliance – works to improve gender identity and gender reassignment equality, rights and inclusion in Scotland.

Website - <https://www.scottishtrans.org/>

Equality and Human Rights Commission (EHRC) - is a statutory body with responsibility for protecting, enforcing and promoting equality across all protected characteristics.

Website - [Home Page | Equality and Human Rights Commission \(equalityhumanrights.com\)](https://www.equalityhumanrights.com)

The **Gender Trust** is recognised as an authoritative centre for professional people who encounter gender identity-related issues in the course of their work.

Website - [GenderTrust.org.uk | Advice on gender issues](https://www.gendertrust.org.uk)

14. Linked Policies

- Diversity and Inclusion Policy
- Attendance at Work Policy
- Disciplinary Policy

15. Version Control

Version No.	Date of Change	Change made by:	Key Amendments
V1.0	06/06/2022	P Butler	
V2.0	03/02/2025	A McKie	Minor clarificatory changes.
V3.0	20/06/2025	D Calciu	Updates to section 7 (payroll requirements) and section 9 (single-sex facilities)

This policy does not form part of employees' terms and conditions of employment and may be varied from time to time in accordance with business and legislative requirements.

Helpful Guidance for Managers and Colleagues Supporting a Transgender Colleague

The following points may be helpful for a transgender person's colleagues to keep in mind:

- Be guided by the language being used by your transgender colleague.
- Use the name and pronoun that the person asks you to. If you are not sure what the right pronoun is, then simply ask. If you make a mistake with pronouns, correct yourself and move on.
- Respect people's privacy. Do not ask a transgender employee what their 'real' or 'birth' name is. Transgender people may not wish to reveal this information, especially if they think it might affect how they are perceived in the present.
- Respect boundaries. If you feel it is appropriate to ask a personal question, first ask if it is ok to do so. Personal questions include anything to do with one's sex life, anatomy and relationship status – past, present or future.
- Always be mindful of your colleague's privacy and right to absolute confidentiality. Do not tell others about a person's transgender status without explicit permission from the individual.
- You are not expected to be an expert on the subject of transgender or gender reassignment however your transgender colleague will appreciate a friendly, respectful and considerate approach from you.