

## Trans Equality Policy Statement

### Purpose

The purpose of this policy statement is to provide all members of the College community involved in further education for young people and adults with a greater understanding of transgender issues, the relevant law and good practice in relation to transgender employees and learners.

### The College Commitment

Brockenhurst College recognises that there can be differences between physical sex and gender identity/expression. Brockenhurst College will at no time discriminate against people on the grounds of transvestism, transsexualism, intersex conditions or any process of gender reassignment, begun or complete. Where this policy refers to 'trans people', it has in mind people living with any of these identities. Where 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.

Brockenhurst College celebrates and values the diversity of its workforce, and believes that the College will benefit from employing trans people at all levels of responsibility, thus hoping to provide role models for students who identify as trans. Brockenhurst College will treat all employees and students with respect, and seek to provide a positive working and learning environment free from discrimination, harassment or victimisation.

### Legislation

The Equality Act 2010 embraces and extends existing legislation to provide protection for transgender people in further education against harassment, victimisation and discrimination in the delivery of goods, facilities, services, and in employment (at recruitment, during employment and when ending a job).

The Gender Recognition Act 2004 gives legal recognition in their acquired gender to transsexual people who satisfy the Gender Recognition Panel (a judicial body of lawyers and doctors) that they:

- Have or have had gender dysphoria, and
- Have lived in the acquired gender for two years prior to the application, and
- Intend to live permanently in the acquired gender.

The panel or the Secretary of State can also apply for medical evidence, marital status and other information, which must be provided for an application to be successful.

Following a successful application, a transsexual person will acquire the rights and responsibilities of their acquired gender from the date of recognition.

## Meeting our legal duties - The College Code

Brockenhurst College values diversity and inclusion. There is no tolerance of discrimination against others in relation to the protected characteristics: Age, Disability, Gender, Pregnancy/maternity, Race, Religion or belief, Sexual orientation, Transgender.

Brockenhurst College undertakes the following:

- Students will not be denied access to courses, progression to other courses, or fair and equal treatment while on courses because of their gender identity.
- To work to ensure that all of a trans person's rights are met.
- The curriculum will be checked to ensure that it does not rely on or reinforce stereotypical assumptions about trans people, and that it does not contain transphobic material.
- Brockenhurst College will respect the confidentiality of all trans staff and students and will not reveal information without the prior agreement of the individual.
- Staff will not be excluded from employment or promotion because of their gender identity.
- Transphobic abuse, harassment or bullying (name-calling/derogatory jokes, unacceptable or unwanted behaviour, intrusive questions) is a serious disciplinary offence and will be dealt with under the Harassment and Bullying Policy and Monitoring and Tracking Policy and Procedures.
- Transphobic propaganda, in the form of written materials, graffiti, music or speeches will not be tolerated. Brockenhurst College undertakes to remove any such propaganda should it appear on the premises.
- Brockenhurst College will provide a supportive environment for staff and students who wish their trans status to be known. However, it is the right of the individual to choose whether s/he wishes to be open about gender identity. To 'out' someone, whether staff or student, without permission is a form of harassment and, possibly, a criminal offence. Brockenhurst College will include gender identity issues in equality training.
- Brockenhurst College welcomes, and will provide, appropriate facilities for trans student and staff groups.
- The College will consult trans students and trans staff about their wishes with respect to residential trips and, where possible, make appropriate arrangements to meet identified need.
- Having consulted with trans staff and students and the trans community, Brockenhurst College will include gender identity when monitoring complaints of harassment.
- In providing accommodation for students (host families, for example), any concerns or issues raised by trans students will be handled by the appropriate office and will be treated fairly and in line with Brockenhurst College's obligations under equality law.
- Staff and students undergoing medical and surgical procedures related to gender reassignment will receive positive support from Brockenhurst College to meet their particular needs during this period.

- For staff with significant medical and surgical treatment returning to work after an absence related to these procedures, the College will 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.
- Brockenhurst College recognises that trans staff and students come from diverse backgrounds, and will strive to ensure they do not face discrimination on the grounds of their gender identity or in relation to other aspects of their identity, for example, their race, age, religion, disability or sexual orientation. In addition, assumptions will not be made about the sex of partners of trans staff or students.
- The College will ensure that all records of trans staff and students 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.
- The College notes that any unequal treatment of part-time workers may have an adverse impact on trans people, who may be more likely to be found in such roles within any organisation and will use impact assessment to avoid potential discrimination.
- Brockenhurst College will ensure that its environment, in terms of its pictures, images, publicity materials and literature, reflects the diversity of its staff and students.

## **RESPONSIBILITIES**

**Governors** are responsible for ensuring that:

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

**The College Principal 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

**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 and promotion of staff enshrine best practice in relation to equality and diversity

- 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

**Staff** are responsible for ensuring that:

- They are aware of the College's statutory duties in relation to gender reassignment and other relevant equality legislation
- They challenge discriminatory behaviour by learners, placement providers, outside contractors or members of staff
- The College and each individual member of staff confront discrimination, whether witting or unwitting, whenever it occurs.

## **Complaints**

The College will seek to provide a supportive environment for those who make claims of discrimination or harassment.

Students should, in the first instance, raise the issue with their academic tutor or with the LDD Co-ordinator.

Staff who feel they are being discriminated against on the grounds of gender identity by other members of staff should raise the matter under the Grievance Procedure. If the allegation is upheld, the discrimination will be treated as a serious disciplinary offence.

If, during the course of their work, members of College staff suffer discrimination from members of the public, the College will take appropriate action and provide appropriate support.

Any discriminatory behaviour directed against staff by students will be dealt with under the student disciplinary procedure.

## **Glossary**

*Transgender people* – a term for those who cross the conventional boundaries of gender. Transgender people may not identify as one gender or another, but rather androgyne or living in more than one gender role.

*Gender dysphoria* – a condition where a person feels that s/he is trapped within a body of the wrong sex.

*Transvestite/cross-dressing people* – most people who cross dress identify with their birth gender and do not wish to alter their physical characteristics. They are not covered by the Single Equality Act 2010.

*Sexual orientation* – a change of gender rarely relates to a person's sexual orientation. Trans people, like all people, can be lesbian, gay, bisexual, asexual or heterosexual.

*Harassment* – defined as unwanted conduct, which has the purpose or effect of violating dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment.

Further information and a more extensive glossary can be found on page 9.

This policy paper has drawn on policies and protocols from South Tyneside College, Wakefield Council, Leeds City College and *Promoting transgender equality in further education* LSIS. (2010).

## The Transition Process in a Further Education Setting

The chart below provides an overview of a typical transition. Each individual's situation will vary depending on a range of factors, including whether or not a person opts for medical procedures, and whether they are receiving medical assistance privately or on the NHS.

A person identifies that his/her physical gender is not his/her actual gender.
The person is diagnosed with gender dysphoria.
The person informs his/her institution of the desire to transition to the preferred gender and will commence a real-life experience.
After at least three months, the person begins hormone therapy.
At the person's request, the institution updates its records to reflect any name change and the new gender.
A new staff or student file is created and any documents revealing the person's former name and gender that must be kept (for example, pension records) are marked 'confidential'.
If the person is a student and he/she has changed his/her name, the student is informed that he/she must legally change his/her name before qualifications certificates can be issued in the new name.
After at least 12 months, the person may undergo genital surgery.
After two years of living in their chosen gender, whether or not they have undergone surgery, the person applies for a gender recognition certificate.
A gender recognition certificate is awarded and the person is issued with a new birth certificate.
The person is now legally recognised in their chosen gender – all documents and references that have not already been changed must now be changed.
If the person is a staff member who is a member of the institution's pension scheme, they must send their new birth certificate to the appropriate person to ensure their gender is changed on pension records.

As a member of staff (either teaching or support), should you have a student who informs you that s/he will be transitioning, please refer to the LDD Co-ordinator who will support both you and the student through the transition process.

Many courses require DBS checks. There is now a process in place for people who have changed gender. If a student is asked to complete a DBS application form they must contact the DBS's Sensitive Application's Team. This will ensure that their previous gender/name is not released on the DBS certificate without their permission. The DBS can then track their application when it arrives and check the content before it is issued. See Appendix 4 for contact details of the DBS Sensitive Application's Team.

## **Trans Respect Guidelines for staff and students**

The following informal guidelines on how to treat people who are transitioning may be helpful for a trans person's colleagues and fellow students.

- Think of the person as being the gender that they want you to think of them as.
- Use the name and pronoun that the person asks you to use. If you aren't sure what the right pronoun is, ask. If you make a mistake with pronouns, correct yourself and move on. Don't make a big deal out of it.
- Respect people's privacy. Do not ask what their 'real' or 'birth' name is. Trans people are often sensitive about revealing information about their past, especially if they think it might affect how they are perceived in the present.
- Similarly, respect their privacy. Do not tell others about a person's trans status. If documents have to be kept that have the person's old name and gender on them, keep them confidential.
- Respect people's 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 (not just genitalia) and relationship status – past, present or future. Questions such as, 'Are you on hormones?' can be considered personal.
- Listen to the person, and ask how they want to be treated and referred to.

## **Review of Policy Impact**

Under the Gender Equality Duty, colleges are required to assess the impact of their policies on gender equality. Brockenhurst College routinely assesses and evaluates the impact and currency of its policies. The College will use the following indicators to review policy provision and the effectiveness of its policies for trans staff and students:

- Trans students and employees feel supported.
- Employees undergoing transition are retained as valued members of staff.
- Students undergoing transition are able to complete their programme of study.
- Barriers to the recruitment and retention of trans staff and students have been identified and removed.
- A clear and workable policy is in place for dealing with harassment of trans staff and students.
- Support mechanisms exist to protect the health and welfare of trans staff and students.
- Groups providing a voice for trans staff and students are established.
- There is evidence that the institution promotes and maintains a culture of respect for the dignity of individuals.
- There are appropriate protocols for the management of sensitive and confidential information about a person's trans status.
- Practical matters relating to transition, such as access to changing and toilet facilities, are resolved quickly and respectfully.
- Curriculum provision is not based on gender stereotypical assumptions or imagery.



## **GLOSSARY OF TERMS**

### **Introduction**

Terminology in the transgender field is varied and constantly shifting as our understanding and perceptions of gender-variant conditions changes. The concept of a 'normal' gender expression associated with a binary man/woman paradigm is, in itself, questionable. In addition, in writing such a glossary of terms there is a risk of merely creating further stereotypes. People have the right to self-identify, and many people, especially among the young, reject the whole idea of binary gender tick boxes, and use terms more wide ranging, open terms such as pan-gender, poly-gender, third gender, gender queer and so on.

### **Gender Identity**

Gender identity describes the psychological identification of oneself, usually as a boy/man or as a girl/woman. There is a presumption that this sense of identity will evolve along binary lines and be consistent with the sex appearance. However, not everyone will wish to be constrained by that binary form of categorisation. Some people experience a gender identity that is completely inconsistent with their sex appearance, or may be neutral, or may embrace aspects of both man and woman.

### **Sex**

Sex refers to the male/female physical development – the phenotype. In an infant, the sex is judged entirely on the genital appearance at birth. Other phenotypic factors such as karyotype (chromosomal configuration) are seldom tested unless a genital anomaly is present. There is a presumption that an apparently male infant will identify as a boy and vice versa.

### **Gender Role**

The gender role is the social role – the interaction with others which gives expression to the inner gender identity and reinforces it. Despite the greater gender equality in modern Western culture, in terms of the subjects studied in school and at university, the choice of friends, work and domestic arrangements, dress and leisure pursuits, there is still a presumption of conformity with society's 'rules' about what is appropriate for a man or a woman, a boy or a girl, especially in terms of appearance. A significant departure from stereotypical gender expression often causes anxiety and discomfort in those who witness it.

### **Gender Variance/Gender Dysphoria/Gender Identity Disorder**

It is now understood that the innate gender identity, although powerfully influenced by the genitalia and the gender of rearing, is not determined by these factors. There is evidence that sex differentiation of the brain may be inconsistent with other sex characteristics, resulting in individuals dressing and/or behaving in a way which is perceived by others as being outside cultural gender norms; these unusual gender expressions may be described as gender variance. Where conforming with these norms causes a persistent personal discomfort, this may be described as gender dysphoria. In many, this includes some level of disgust with the phenotype, since this contradicts the inner sense of gender identity. Gender dysphoria is not a popular term with those experiencing the condition since it has become associated with the clinical diagnosis of gender identity disorder; both these descriptions imply a diagnosis of pathology and mental illness, whereas the more neutral term, gender variance, denotes that these departures from stereotypical gender experience and expression are part of a natural, albeit unusual, human development.

### **Transsexualism**

Gender dysphoria may be experienced to a degree that medical intervention is sought; this may include hormone therapy and/or surgical procedures to change the appearance and

improve personal comfort. Often these treatments are associated with a permanent transition to a gender role that accords with the gender identity, thus alleviating much or all of the discomfort. At this level of intensity, the condition is commonly known as transsexualism. A transsexual person is someone who intends to undergo, is undergoing or has undergone gender reassignment. The word transsexual should be used as an adjective, not a noun. It is, therefore, not appropriate to refer to an individual as a transsexual, or to transsexual people as transsexuals; the abbreviation tranny is also unacceptable.

### **Transition**

Transition is the term used to describe the permanent change of gender role in all spheres of life: in the family, at work, in leisure pursuits and in society generally. A few people make this change overnight, but many do so gradually over a period of time. The term affirmed gender, is now becoming more common in describing the post-transition gender role which, at that stage, accords with the innate gender identity.

### **Gender Confirmation Treatment**

Those transitioning permanently usually have gender confirmation treatment that includes hormone therapy and often surgery to bring the sex characteristics of the body more in line with the gender identity. Such surgery is sometimes referred to as gender (or sex) reassignment surgery. The term sex change is not considered appropriate or polite.

There are other gender-related surgeries that may also be undertaken for reasons of appearance or function. Equality law makes special provisions for people who need to take time off for treatments associated with gender reassignment.

### **Transgender**

Transgenderism has had different meanings over time and in different societies. Currently, it is used as an inclusive term describing all those whose gender expression falls outside the typical gender norms; for example, those who cross-dress intermittently for a variety of reasons including erotic factors (also referred to as transvestism), as well as those who live continuously outside gender norms, sometimes with, and sometimes without, medical intervention. There is a growing acknowledgement that although there is a great deal of difference between say, a drag artist and a transsexual person, there are nonetheless areas in the transgender field where the distinctions are more blurred; for example, someone who cross-dresses intermittently for some years, may later transition fully to the opposite role and could, then, be described as a transsexual person.

### **Trans Men and Trans Women**

The word trans is often used synonymously with transgender in its broadest sense. However, sometimes its use is specific, for instance, those born with female appearance but identifying as men may be referred to as trans men and those born with male appearance but identifying as women may be referred to as trans women; these individuals could also be referred to as transsexual men and women. Many trans people, having transitioned permanently, prefer to be regarded as ordinary men and women. In these cases, where it becomes essential to refer to their pre-transition status, the phrase woman (or man) of transsexual history may be used.

### **Intersex Conditions**

There are a number of intersex conditions (recently renamed Disorders of Sex Development) that may lead the individual born with them to experience some inconsistency between their gender identity, and the gender role assigned at birth. Inconsistencies in development may be associated with atypical sex chromosomes such as Klinefelter syndrome (XXY), Jacob's syndrome (XYY) or other genetic anomalies, such as Androgen Insensitivity Syndrome or Congenital Adrenal Hyperplasia in which unusual hormone levels are present. These may lead to atypical genital appearance at birth.

### **Sexual Orientation**

Sexual orientation is a separate issue from gender identity. Sexual orientation is associated with the sexual attraction between one person and another. This is quite different from the internal knowledge of one's own identity. Trans people may be gay, straight, bisexual or occasionally, asexual. Their sexual relationships may remain the same through the transition process, or they may change.

So a person who is living as a man, and is in a heterosexual relationship with a woman may, having transitioned to live as a woman and seek a lesbian relationship, or may be attracted to men, and therefore seek a heterosexual relationship with a man. Sometimes trans people make lasting relationships with other trans people, so the possibilities are many and varied, and do not necessarily fit comfortably into typical categorisations of sexual behaviours.

### **Gender Recognition Certificate**

In 2004 the Gender Recognition Act was passed, and it became effective in 2005. Those trans people who have undergone a permanent change of gender status may endorse their new gender status by obtaining legal recognition in the form of a Gender Recognition Certificate; this converts to a new birth certificate. Those in existing marriages or civil partnerships are obliged to annul them. Annulment may be achieved by obtaining an interim GRC (IGRC) which lasts for six months only, during which time the application to annul must be made.

## External Support and Resources

The following are organisations that exist to provide support to students, staff and families/carers.

### Local Organisations

#### Hampshire LGBT+ Alliance

[www3.hants.gov.uk/lgbtalliance](http://www3.hants.gov.uk/lgbtalliance)

#### LGBTQ First

[www.cfirfirst.org.uk/youthfirst](http://www.cfirfirst.org.uk/youthfirst)

### National Organisations

**The Beaumont Society** is a support network for the transgender community –

[www.beaumontsociety.org.uk](http://www.beaumontsociety.org.uk)

**Broken Rainbow** is a national organisation offering support to lesbian, gay, bisexual and transgender victims and survivors of domestic violence and abuse – [www.broken-rainbow.org.uk](http://www.broken-rainbow.org.uk)

**Depend** is an organisation offering free non-judgmental advice and support to family and friends of transgender people in the UK – [www.depend.org.uk](http://www.depend.org.uk)

**The Gender Trust** is a support and information centre for trans people and their families. It also provides advice for employers and others who encounter reassignment in their work – [www.gendertrust.org.uk](http://www.gendertrust.org.uk)

**The Gender Identity Research and Education Society (GIRES)** initiates and promotes research into gender identity – [www.gires.org.uk](http://www.gires.org.uk)

**Gendered Intelligence** offers a free mentoring service for trans students and those questioning their gender identity – [www.genderedintelligence.tumblr.com](http://www.genderedintelligence.tumblr.com)

**Mermaids** is a support group for gender variant children, teenagers and their families – [www.mermaids.org.uk](http://www.mermaids.org.uk)

**Queer Youth Network** is a national voluntary group for lesbian, gay, bisexual and transgender young people – [www.queeryouth.org](http://www.queeryouth.org)

**T-house** is the first Black Trans organisation in the UK, addressing gender and cultural identity – [www.t-house.me](http://www.t-house.me)

**Trans Media Watch** gives guidance for transgender people dealing with the media – [www.transmediawatch.org](http://www.transmediawatch.org)

**The UK Intersex Association (UKIA)** campaigns and supports intersexed people – [www.ukia.co.uk](http://www.ukia.co.uk)

## SUPPORT AVAILABLE FOR STAFF

This support includes:

- Any member of staff who has taken the decision to go through the transition process can request a meeting with a representative of Human Resources and their trade union representative, or friend.
- The transitioning individual may then request a second meeting with their line manager, a mentor (such as the LDD Co-ordinator) or a member of Human Resources. S/he will also have the right not to have such a meeting.
- Prior to this second meeting, if it is desired, all those invited will be sent information about trans issues (such as ECU, Employing Transsexual People in Higher Education, or the publications of the Gender Identity and Research and Education Society or Press for Change or Gender Reassignment – A Guide for Employers).
- At this second meeting or afterwards, the individual going through the transition process will have the right to make available to any colleagues the details of appointments, and the dates of hormonal or surgical treatment, if they are planning to go through these procedures.
- Those involved in the first or second meeting may want to discuss (on this occasion or subsequently) access to toilet facilities.
  1. The employer and employee should agree the point at which the use of facilities such as changing rooms and toilets should change from one gender to the other. This may be, for example, the point at which the individual begins to present permanently in the sex to which they identify.
  2. It is not acceptable to treat a transgender person as though s/he has a third sex, i.e. neither male nor female. It is therefore not acceptable to insist on a transgender employee using separate facilities in the long term, for example an accessible toilet for disabled people.
  3. A transgender employee should be granted access to 'men only' or 'women only' areas according to the gender in which they permanently present. Under no circumstances should they be expected, after transitioning, to use the facilities of their former gender.
- They may also want to discuss identification passes, contact details, email addresses, formal records, website references, or any other matter raised by the person undergoing transition.
- Any individual who is going through the transition process will receive at least the same level of support and protection from management as any other colleague. Any reasonable requests for time off or work on different sites, or alternative duties will be noted, discussed seriously, and if it is at all possible to act on them, that will be done.
- While all trans people can expect to have any requests treated in utmost confidence, the College additionally reaffirms its commitment to respond in confidence to any requests

made by transitioning staff. It is essential that the person grants permission before their status is discussed with any third party.

- The College will not in any way penalise any member of staff for failing to make their trans or transitioning status known to colleagues or personnel, or for any delays in making this information known. Conversely, the person transitioning should appreciate that they cannot expect the College to make reasonable adjustments on their behalf if the College does not know about their status.
- The person undergoing transition will have the freedom to choose a date at which they expect College records to be changed. It may be the day after the first or second meeting, it may be after they begin transitioning or after surgery, or after the receipt of a Gender Recognition Certificate, or any other time. Following their request, all College records will be changed, including personal files, sickness files, progression files, pay roll details, paper files, material held as a paper or electronic database. No changes will be made without prior request. No reasonable requests will be refused.
- The person undergoing transition will have the right to request a meeting with staff in their area of work at which their status as a transitioning person is explained. At this meeting, if it happens, a representative of the College will express their support for the individual concerned. The transitioning person may choose if they wish to answer questions from other members of staff.
- If such a meeting takes place, then all those involved will be bound by the same rules of confidentiality, given above. The status of the individual undergoing transition will not be discussed with any third party without the prior consent of the person who is changing gender.
- Following the date chosen by the transitioning individual, any remaining information will be changed to reflect their new gender identity; staff lists, organisational charges, post trays, door signs, and all other relevant information will be changed. The name of the individual who has undergone transition will not be inappropriately withheld from any list – omission can be embarrassing.
- The College will recognise all medical documents produced by any medical practitioner relating to the transition. In general, the College will take the word of the person transitioning. No attempt will be made to expect medical proof of conditions such as gender dysphoria. Nor will any person transitioning be subject to intrusive questioning by any representative of the College.
- All Gender Recognition Certificates will be honoured.
- No trans person will suffer discrimination at any stage in the interview process, or for selection for promotion, or at any other time.
- While the College will deal sympathetically and speedily with any reports of bullying and harassment against any member of staff or student, irrespective of gender identity, this commitment is reaffirmed for trans staff and students, including those undergoing transition.

## **RECORD KEEPING AND DBS CHECKS RE CONFIDENTIAL NAME CHANGE**

### **Record Keeping**

The College will ensure that all documents, public references (such as telephone directories, prospectuses, web biographies) and employment details reflect the acquired gender of the person. 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 transsexual 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 maximum £5,000 fine. Breaches of confidentiality should be treated in the same serious manner as disclosure of personal details of any other member of staff.

Transsexual people in employment may choose voluntarily to disclose information at a secondary level, for example, answering an equality 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 transsexual 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. (The Data Protection Act will be replaced by General Data Protection Regulation (GDPR) in May 2018)

### **DBS**

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 now devised a process which allows transsexual people to pass details onto the DBS without first revealing them to the employer.

**What do Transsexual Applicants have to do?**

The DBS has developed a separate application procedure, which allows transsexual 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.

Transsexual applicants wishing to take advantage of this separate procedure should contact the DBS for further details.

For more information, you should contact DBS's Sensitive Application's Team:

Tel: 0151 676 1452  
Email: [sensitive@dbs.gsi.gov.uk](mailto:sensitive@dbs.gsi.gov.uk)  
The Sensitive Application Team  
Customer Services  
Disclosure and Barring Service  
PO Box 165  
Liverpool L69 3JD