

**GENDER  
REASSIGNMENT**

**CODE OF PRACTICE**

# **WARWICK DISTRICT COUNCIL**

## **GENDER REASSIGNMENT CODE OF PRACTICE**

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SECTION 1

**INTRODUCTION**

## **SECTION 1**

# **INTRODUCTION**

All staff employed by Warwick District Council are offered protection under the corporate employment statement which is as follows:

- This Council whole-heartedly supports the principle of equal opportunities in employment, and opposes all forms of unlawful or unfair discrimination, either direct or indirect, on the grounds of colour, race, nationality, ethnic or national origin, religion, disability, age, sex, gender reassignment, marital status, responsibility for dependants, sexual preference or political affiliation.

This statement commits the Council to providing a safe and fair working environment for all staff and demonstrates the intolerance of anti-social behaviour.

The Gender Reassignment Code of Practice confirms these common principles and provides guidelines for approaching the subject. This should ensure a consistent Warwick District approach within Warwick District Council.

It is important to remember that the law in this area is rapidly changing and new developments are arising regularly. Therefore this Code of Practice and Warwick District Council Guidelines will need to be updated accordingly.

SECTION 2

**RECRUITMENT**

## SECTION 2

### RECRUITMENT

- Prior to appointment, at no time is it appropriate to ask for a candidate's gender. (Although this will have been registered on the Council's monitoring form, it is not information that is passed to a short-listing or interview panel.)
- If gender/gender reassignment is communicated by an applicant to a member of staff, it must be kept confidential and should in no way affect any decisions in the recruitment process.
- However, once the candidate has been offered the job, the Business Unit would need to be aware of a gender change by that person for the following reasons only.

#### a) **References**

When applying to previous employers for a reference, Business Units will need to be aware if the applicant was known by a different name.

Unfortunately, there may be a possibility that the candidate was dismissed from their previous job, not because of competency, but due to their decision to change sex. However, it is highly unlikely that this will be stated as the reason for dismissal.

Each case will need to be dealt with on an individual basis. It is suggested that Business Units seek guidance from the Senior Personnel Officer and do not make a decision within the Unit.

If, however, the Business Unit has taken references prior to the interview and receives details of a previous dismissal - the standard procedure for all dismissals by a previous employer should be adopted - this is as follows:

- the interview should go ahead
- As with all applications you should offer the applicant a chance to raise the issue without having to ask directly about the dismissal.

- eg. “I see you worked for “Employer and Company”, what were your duties?.....’
- ‘Why did you leave’ etc. etc.
- Should the Business Unit wish to offer a person the position and they have declared a previous dismissal and suggests that this was due to his or her gender reassignment, again seek advice from the Senior Personnel Officer.

**As with any dismissal from a previous employer, Warwick District Council need to be sure any reasons given for the dismissal are genuine.**

**b) Membership of Pension Scheme**

Current law dictates that all pension schemes must accept members by their birth gender only.

To join Warwick District Council’s scheme (processed by the County Council) Business Units must see the applicant’s birth certificate and registration will be based on these details. Therefore, if the Business Unit was previously unaware of a change of sex, it will become apparent from the birth certificate.

If, at this point, the Unit had been unaware of the change, it would not be unreasonable to ask the candidate about their sex change. The situation may also arise whereby this information comes to light on the individual’s first day of employment - many new members of staff bring any required documents on their first day. If this is the case, it is suggested that the Head of Unit or a senior Manager should take the staff member into a private room to discuss the matter further. In both instances, further questioning would be reasonable on the grounds of ensuring that their pension would be legal and valid.

SECTION 3

**EXISTING STAFF**

## SECTION 3

### **EXISTING STAFF**

- **Where an existing member of staff communicates their intention to reassign gender.**

In preparation for the full operation, the individual concerned will need to 'live the role' for approximately two years. This will mean that they will want to begin to present themselves as the opposite sex.

It is anticipated that the member of staff would approach their line manager in the first instance. Business Units should immediately notify and involve the Senior Personnel Officer.

However, the situation could arise where the member of staff arrives at work dressed as the opposite sex without speaking to another member of staff.

It is suggested that the relevant line manager speaks to the person involved in private with the intention of offering support. Conflict and confrontation should be avoided. Again, the Senior Personnel Officer should be notified immediately.

Consideration will need to be given to the following:

- the individual's needs
- agreeing a process
- other members of the team
- communal areas

#### a) **The Individual's**

##### **Needs Absence**

The member of staff will need to take time off work for the following:

- counselling
- medical treatment

During the 'life role' stage the person will be receiving counselling to help them through the transition period. They will therefore need to take leave from work; normally one day per month. This stage could last around two years.

It is suggested that, where possible, the normal Council Guidelines for time off for appointments are followed. Flexi-time should be used but this will need to be considered on an individual basis. Again, where in doubt, seek advice from the Senior Officer Personnel.

After this period, the person will go for surgery and will need to be absent from work. The general guidelines are that if the transition is:

- **from male to female** - one operation with a four week recovery period.
- **from female to male** - two operations with a six month gap between them. The first operation has a two to three week recovery period. The second operation has an eight to twelve week recovery period.

As with any operation, the recovery period will depend upon the individual.

As this is medical treatment, normal sick leave rules should apply. Again, it is suggested that each case be dealt with on an individual basis, should more absence be required. If the absence continues outside of normal sick leave rules, alternatives could be offered, for example, unpaid or annual leave.

## **Support**

The Council wants to offer any member of staff going through the gender reassignment process as much support as possible. Business Units should respect the individual's requirements and try to accommodate them wherever possible.

From January 2000, the Council will have a number of Employee Support Officers. It may be appropriate for a Line Manager to refer the individual.

The Council's aim is to bring as little attention to the situation so as to avoid any awkwardness or embarrassment to the individual concerned.

## b) **Agreeing a Process**

One of the most important factors in the management of an employee's transition is to discuss with them how they would prefer it to be dealt with. A suggested method is to establish an agreed plan, to include the following areas:

- whether the employee will want to stay in their current post or move to a new unit.

- If the employee is in a gender sensitive post Warwick District Council will reserve the right to redeploy that person until appearance is no longer ambiguous - where they would be redeployed to and for how long needs to be discussed.
- The expected stage at which a change of name and personal details should take place. Also what amendments will be required to records and systems.
- How the employee wished the change to be communicated to others - at what point and by whom.
- Agreeing the point at which the individual will commence using their 'new sex' facilities ie. toilets, showers.

c) **Members of the Team**

The change will have an impact on the individual's colleagues.

This will need to be monitored very closely by the line manager with the guidance of the Senior Personnel Officer.

- in the first instance, the team will need to be informed of their colleague's intentions by whoever the individual has requested.
- Background information about the condition should be given to staff to help them understand. The Senior Personnel Officer will provide this information.
- A time for staff to ask questions or raise concerns should be offered. The Senior Personnel Officer should be present.
- Press for Change (an organisation dedicated to the positive promotion of transgendered and intersex persons), offer awareness training to help colleagues understand the transition process. They will also offer support to the individual.
- Any evidence of discrimination or harassment should be dealt with in the same serious manner as harassment is dealt with for any member of staff who is being discriminated against, for example, on the basis of their sex or race.
- As little attention as possible should be drawn to the situation. Negotiation and compromise will be the key to successful management of this situation.

d) **Communal Areas** (Changing Rooms>Showers>Toilets)

After the full transition has taken place the individual should use their new sex facilities on all occasions. There is case law to support this.

However, the situation may be more difficult prior to and during the gender reassignment process where the individual may present an ambiguous appearance and be highly self conscious.

During this period it is suggested that an alternative is offered to avoid any embarrassment for the individual concerned and their colleagues. For example, the use of a disabled facility.

This should be offered as a temporary solution only and a permanent arrangement should be sought as soon as possible.

A problem may arise where other members of staff object to sharing facilities. If this happens the Senior Personnel Officer must be contacted immediately.

Communication will be important in this instance. The Line Manager must ensure that staff are made aware of the situation and deliver the message of team support for their colleague.

This is a difficult situation with no 'clear cut' answers but the aim of the Line Manager should be to reach a compromise amongst staff.

Once again, any evidence of discrimination or harassment should be dealt with in the same serious manner as harassment is dealt with for any member of staff who is being discriminated against.

SECTION 4

**SERVICE DELIVERY**

## SECTION 4

### **SERVICE DELIVERY**

All Warwick District Council services should be made available to all members of the community. Services should be delivered in a fair and efficient manner.

However, there are groups and individuals that may have additional needs for various reasons. There are occasions when a person's circumstances can make them more vulnerable because of others anti-social behaviour. For example an individual in the process of gender reassignment may be subject to harassment. These circumstances must be acknowledged and dealt with in a sensitive manner.

Officers must never be judgmental of an individual's circumstances. Personal beliefs or opinions must not undermine Council policies and practices.

It is not appropriate for this Code of Practice to highlight all the different sensitive circumstances that individual business units may face. The Code of Practice aims to re-emphasise the Council's position of "equality".

#### **a) Public Communal Areas**

- toilets
- showers
- changing rooms

It is this matter that can cause staff more difficulties when dealing with members of the public wishing to use Council owned communal facilities.

This situation should be dealt with in the same way as for the Council's staff facilities.

After the full transition has taken place members of the public should be using their new sex facilities on all occasions. There is case law to support this.

However the situation may be more difficult prior to and during the gender reassignment process where the individual may present an ambiguous appearance and be highly self conscious.

Where there are individual cubicles, staff are encouraged to allow the individual to use their future sex facility immediately. However where there is unrest or a facility is completely communal it is suggested that an alternative is offered to avoid any embarrassment for the individual concerned and other members of the public. For example, the use of a disabled or baby changing facility.

This should be offered as a temporary solution only - the law clearly states that it is no longer acceptable to expect this to be a long-term or permanent arrangement.

Therefore, a persistent complaint by a member of the public objecting to the use of a facility by a trans-gendered person should not be upheld. A possible solution for the complainant may be for them to use the alternative facilities.

There can not be any rigid roles in this area because each case will bring with it different circumstances. However, the Council policy of equality must be adhered to at all times.