



## Standard Operating Procedure

### Transgender Policy & Procedural Guidance

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Welsh Women's Aid Internal

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**SOP Owner:** Janette Morgan HR Manager

**Author:** Janette Morgan HR Manager



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## 1. Introduction

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In accordance with the Equality Act 2010, Welsh Women's Aid (WWA) aims to create an inclusive community where people are enabled to meet their full potential and are treated as individuals. This includes recognising, supporting and understanding a person's preferred gender identity. WWA understands that transgender survivors of domestic abuse and sexual violence and all forms of gender-based violence share the same need for the provision of safety, support and advocacy services. Within WWA's overall commitment to providing equal opportunities in employment and service provision, the organisation is committed to ensuring that transgender people are treated with respect and do not experience discrimination and/or harassment on the basis of their gender identity. For the purposes of this document the term transgender will be used; a transgender person is someone whose own gender identity does not conform to the sex they were assigned at birth. This will also include individuals who describe their gender as non-binary.

### 1.1 Language and definitions

This section explains briefly who we are talking about when we use the term 'transgender', or 'trans'. For a fuller description of terms and definitions please refer to **appendix 1**.

### 1.2 Gender Identity

This is the gender with which people internally identify. People may understand/interpret other people's gender identity by the clothes they wear, their mannerisms, or outward appearance, however it is important to recognise gender as a social construct, so how someone presents externally may not 'match up' to how they experience themselves in terms of their gender identity.

### 1.3 Gender binary

Gender is often thought of as binary; people are either male or female, all of the time. This does not represent how many people feel about their own gender identity. Some people identify as a man, or as a woman. Some people identify as both of these genders. Others might identify as neither a man, nor a woman, but hold another gender identity and move between these along a **spectrum of gender identities**, rather than a selection of pre-defined options.

### 1.4 Transgender

The term **transgender**, or **trans**, is often used as an 'umbrella' term to cover the many ways in which people might refer to a range of gender identities which differ from those assumed and expected by society and does not match the sex they were assigned at birth. We also recognise that people may identify differently at different times in their lives and in different circumstances. As an umbrella term it may include people who identify as:

- Transsexual woman - male to female
- Transsexual man - female to male
- Intersex people
- Polygender people



- Cross dressing people (It is worth noting that not all people who cross dress identify as transgender)
- Other ways of defining gender identity

Transgender and trans is used in the *Welsh Government Action Plan to advance equality for transgender people* as an umbrella terms to describe people whose gender identity and sense of self does not wholly match the gender assigned to them at birth, which includes those who identify as non-binary although not necessarily all non-binary identify as trans.<sup>1</sup>

### 1.5 Transsexual

People who identify as transsexual (women that were born biologically male / men that were born biologically female) may have identified quite early in life that they felt as if their gender identity did not match with either their sexed body, or with the gender expectations that others made of them. People may have identified this feeling either at a very young age or later in their lives. Under the Gender Recognition Act 2004 and the Equality Act 2010, transsexual people are protected by particular legislative rights (outlined further in section 3).

### 1.6 Transitioning

**Stronger Together: Guidance for women's services on the inclusion of transgender women (2011)** provides a helpful perspective on the concept of transitioning. They highlight that people identifying as transsexual may feel that they want to live in the gender with which they identify, their acquired gender. This process is called transitioning. This process is personal to each individual. For example, some people change the clothing that they wear to match more closely with their own sense of their gender identity. They may do this for some of the time, or full-time. This may be all that this person wants to do, and that this feels sufficient for their own identity. Some people may want to seek hormone therapy to help them to alter their bodies to reflect their identity better. Others may feel that it is important to have surgery in order for their bodies to align to their own gender identity. It is crucial that services respect and recognise people's own self defined gender identity, for example, by using appropriate pronouns and treating people according to their acquired gender. It is worth thinking about transition as not an absolute, but as a process. The end point of that process may be acquiring a Gender Recognition Certificate, being accepted full time as the gender with which one identifies in day to day life, or may be at some other point.

This document contains two sections:

**Part one:** The Policy Statement sets out the broad framework of principles within which WWA will operate in relation to the employment of, and delivery of services to, transgender people.

**Part two:** The Procedural Guidance sets out the information services require to carry out their duties, including legal obligations, in relation to the employment of, and delivery of services to, transgender people. It sets out specific tasks and identifies who is responsible for carrying them out. This section also details WWA's approach to ensuring good practice in relation to employment and service delivery.

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<sup>1</sup> <http://gov.wales/docs/dsjlg/publications/equality/160314-transgender-action-plan-en.pdf>



## 2. Purpose & Principles

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The purpose of this policy and procedure is to set out WWA's approach to promoting equality of access, inclusion, and support for transgender people as both employees and service users.

WWA will seek to not only eliminate all discrimination on the grounds of gender identity, but also to create a working environment based on good relations between all employees, including trans people, with a shared commitment to respecting diversity and difference. In addition WWA wants to ensure that its work environment enables staff to work to their full potential, provide a place where there is a culture of respect for human rights, and where staff feel valued.

WWA will at no time discriminate against transgender people, and will introduce and maintain measures to counteract all direct and indirect discrimination against transgender people in its organisation, employment practices and provision of services. As such WWA is committed to:

- Providing regular training at all levels (staff and volunteers) on how to support transgender service users;
- Maintaining confidentiality in relation to the disclosure of staff/service users gender identity/gender history without explicit permission (within the parameters of relevant confidentiality and safeguarding policies);
- Services will use respectful language and terminology about transgender service users' identity, including the correct use of pronoun;
- Publicity material will be inclusive and accessible to transgender people;
- All policies, procedures and forms updated will reflect a transgender inclusive ethos.

This policy and procedure is intended to provide a clear and consistent framework to be followed by all members of staff and volunteers through which we seek to:

- enable all staff to maximise their potential and contribution to WWA by recognising their individual needs and strengths;
- ensure that no applicant or employee receives less favourable treatment on the grounds of their transgender status;
- deliver services which effectively meet the needs of transgender people.

The measures set out in this policy and procedural guidance will be put into practice through WWA Trustees, members, staff and volunteers. The senior management team is responsible for the day-to-day implementation of the policy and procedure.

The Chief Executive or senior management team will monitor the practice and results of this policy and will report to the HR sub-committee of the Board. Management and the sub-committee will plan and oversee the implementation of the policy on a continuing basis.



### 3. Legislation

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This section sets out the key legislation and guidance in relation to services meeting their legal obligations. It also aims to go beyond this; whilst the **Gender Recognition Act 2004 and the Equality Act 2010** applies only to transsexual people, WWA is committed to extending the spirit and principles of the legislation set out below to all transgender people.

Transgender people often experience discrimination; discrimination on the basis of gender reassignment is unlawful and covered by equality and anti-discrimination legislation/guidance highlighted below, namely

- Equality Act 2010
- EU Gender Equality Directives
- European Convention of Human Rights (Article 14)
- Gender Recognition Act 2004- including disclosure legislation
- Human Rights Act 1998

**The Equality Act 2010** applies to 'transsexual people' and ensures that gender reassignment is a 'protected characteristic'. A transsexual person is defined as someone who is proposing to undergo, is undergoing or has undergone a process to change their sex. To qualify for protection from direct and indirect discrimination and from harassment on the basis of their transsexual status, transsexual people **do not have to show** that they are under medical supervision; they are protected by the Act as soon as they first present in the gender opposite to their birth sex (and do so with the intention of living permanently in this opposite gender). As such there is no such legal protection under the Equality Act 2010 for non-transsexual transgender people; as highlighted above, this policy's approach is to support all transgender people within the principles and framework of legislation.

**EU Gender Equality Directives:** The European Court of Justice states that the EU's Gender Equality Directives include the right of transgender people not to be discriminated against, and this right occurs from the point at which a person decides or intends to transition. The European Equality Directives require all nation states to create an enforcement body in relation to these and other rights. This includes all aspect of Employment and access to goods, services, housing and facilities in the case of the UK this is the Equality and Human Rights Commission (EHRC). The EHRC 2010 *Provision of goods facilities and services to trans people; Guidance for Public authorities in Meeting you Equality Duties and Human Rights Obligations* sets out clearly the duties of all services which are funded publically or receiving grants from public funds:

- the point a person announces their intention to transition, or,
- when their intention to transition or trans status is known of.



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The Directives require all member states to have national laws (in the UK's case, the Equality Act 2010) to recognise transgender people's rights from the point in time in which they tell their employer, or of when their employer otherwise knows of their intention to undergo, or are undergoing or have undergone gender reassignment.



**The Public Sector Gender Equality Duty (Equality Act 2010):** Public sector bodies such as the health services, universities, police and **those organisations which have been subcontracted or grant aided to do the work of a public sector body**, are bound by to work for the equality of all men and women; this includes transgender men and women. They are also required to work to end discrimination and harassment of all men or women, including transgender men or women.

**European Convention on Human Rights:** The European Court of Justice and Human Rights has held that under the law of the European Convention on Human Rights, a transgender person, from the point of transition, is entitled to a strong level of privacy regarding their medical history and status, and for those who have a **Gender Recognition Certificate the level of privacy has to be further enhanced**. (Goodwin & I v UK Government, 2003). The court has also held that those transgender people with a Gender Recognition Certificate are entitled to higher levels of privacy regarding their gender history, and the right to marry in their new gender role.

**The Gender Recognition Act 2004:** The Gender Recognition Act enforces the European level of Human Rights for trans people via the mechanism of a Gender Recognition Certificate, including the higher level of privacy afforded to trans people's medical history. The Act also enables transgender people who have a Gender Recognition Certificate to contract a marriage or civil partnership as a member of their new gender (sex) group. The Gender Recognition Act allows for a person who is awarded a Gender Recognition Certificate and whose birth was registered in the UK, or with British services overseas, to have a new birth certificate, which does not disclose their former gender.

- **Unlawful Disclosure:** Section 22 of the Gender Recognition Act 2004 makes it a **criminal offence**, with a substantial fine on conviction, for any person to inappropriately disclose information which they have acquired in an official capacity about an individual's application for a Gender Recognition Certificate, or about the gender history of a successful applicant. If a person has a Gender Recognition Certificate or it could be assumed they might have a Gender Recognition Certificate (for example they have been living permanently in their acquired gender for at least two years), then this cannot normally be disclosed further in a way which identifies the person involved without that person's express consent or, more exceptionally, a specific order by a court or tribunal. This is set out clearly in the EHRC (Provision of goods, facilities and services 2010) guidance which states:  
*'The Gender Recognition Act 2004 defines any information relating to a transsexual person's gender recognition application as 'protected information'. it is a criminal offence, subject to a level 5 punishment which currently is up to £5,000 and/or up to six months in prison, for anyone acquiring this protected information in an 'official capacity' to disclose it to a third party without the transsexual person's consent.'* There are only a very few exceptions, for example:
  - Information is specifically required by the third party for the prevention or investigation of a crime;
  - A transgender person is in need of immediate health care, and they are not able to give consent (they maybe unconscious).





- A transgender person has had a court order made against them, whether due to default or bankruptcy and when their credit rating is being assessed. In these cases, credit reference agencies can disclose, for the period of up to six years, the original details on any Court Order or credit contract, even though it might be deduced from them that the person is a transgender person.

**The Human Rights Act 1998** enables transgender people to enforce their core Human Rights within the UK's national courts. The core principles are each person's human rights as outlined under the European Convention on Human Rights and they are embodied as the FREDA principles: **fairness, respect, equality, non-discrimination and the right to personal autonomy are every person's due.**

Guidance on implementing the legislation highlighted above is set out below in Part 2- Procedural Guidance.

## 4. Procedural Guidance

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### 4.1 Recruitment and employment

In line with the aforementioned legislation, WWA will ensure that no transgender person experiences unlawful discrimination at any stage of the recruitment process.

However, in recognition of WWA's status as the provider of services to and promoting the welfare of women and children as the majority of victims of domestic abuse and sexual violence, WWA has chosen to exercise its right under the Equality Act 2010 for provision of single-sex services where applicable (sch. 3, pt. 7, s .27) and to apply the Gender Reassignment Exception (sch. 3, pt. 7, s .28) to employment posts within the organisation.

The Gender Reassignment Exception enables an organisation to lawfully discriminate against a transgender person if the service deals with men and women differently or provides separate services to men and women or only provides services to either men or women, **so long as it is a proportionate means** of achieving a legitimate aim. This will be considered alongside WWA's right to employ self-identifying women/men (this includes transgender women/men as set out within the legislation in section 3) only for women/men only spaces. Such decisions must be carefully considered on a **case by case basis**, with a clear rationale and should **not be used as a blanket policy**. This is in line with the Equality Act 2010, Schedule 9, part 1, Paragraph 1.

WWA fully acknowledges that a transgender or transsexual person may apply for a post, be offered and take up employment with the organisation without their transgender status being noted. Applicants and interviewees for employment may not wish to disclose their transgender/trans status; many have experienced prejudice and harassment as a result of disclosure. We also acknowledge that there is no obligation for a transgender person to disclose their status as a condition of employment.



If they choose to disclose, this is not in itself a reason for not offering employment. Moreover, non-disclosure, or subsequent disclosure, are not legal grounds for dismissal.

Any applicant who believes that he or she has been inequitably treated within the scope of this policy may make a written complaint which, as per the complaints procedure, will be investigated. A written explanation will be given to the applicant.

#### 4.2 Privacy and record keeping

WWA respects each individual employee's human rights to be treated fairly, with respect, and equality, to not experience discrimination and their right to personal autonomy, including in particular their right to privacy as contained in Art. 8 of the European Convention on Human Rights.

In line with WWA policies on record-keeping, any forms and documents that are provided during the recruitment process and any resulting procedures will be considered confidential and will not be accessible by anyone outside the HR department and the individual themselves.

In particular relation to transgender employees, WWA will ensure that all documents, public references and employment details reflect the acquired gender of the person. More details of dealing with requests to change records when an employee/service user is transitioning can be found in sections 15 & 16 of this policy.

In line with the Gender Recognition Act 2004, WWA will also take all reasonable measures to ensure that:

- An employee's gender identity is not unlawfully disclosed to other employees. Unlawful disclosure applies not only to direct word of mouth communication but also to uncontrolled access to paper or computer files. Such a disclosure constitutes a criminal offence liable to a maximum £5,000 fine, as outlined in section 2.
- A transgender person may consent to information about their gender being disclosed, if they decide it is in their interests to do so. Where an employee agrees to their status being disclosed, WWA will obtain explicit written consent, ensuring that the employee agrees in advance which members of staff with whom they wish to share the information, and that the said staff members are aware of the privacy provisions set out in section 2.8.

#### 4.3 Working environment

WWA is committed to creating an environment in which everyone is treated equally and with respect. WWA aims to eliminate discrimination against all transgender people in its structures and employment practices as well as to encourage change in individual behaviour and attitudes, and ensure equality of opportunity and treatment for all staff.



Harassment on the grounds of sex and on grounds of gender reassignment was expressly outlawed in 2005 through amendments to the Sex Discrimination Act 1975. Harassment (which does not have to be targeted at a particular person who is known to be trans, but also includes transphobic language, jokes or actions which create a hostile environment) and bullying are serious disciplinary offences and will be dealt with under the appropriate procedure. This applies to WWA staff, volunteers and other individuals with whom the organisation works, e.g. colleagues from partner agencies. Serious cases will be regarded as gross misconduct and, as such, may result in summary dismissal. Furthermore, WWA will not tolerate harassment of any transgender staff, not only those who are protected under the legislation outlined in section 3.

WWA will also take action to prevent harassment of a transgender employee by third parties, for example a service user or member of the public, seeing this as if it was harassment by the employer, as set out in the **2008 amendments to the Sex Discrimination Act 1975**. WWA will further act to ensure all transgender staff are protected from harassment by third parties.

Recognising that prejudice and discrimination against transgender and transgender people is usually founded on ignorance and/or fear of a perceived threat, WWA will cover discrimination against transgender/trans people within its diversity training, both internally and externally, to improve understanding the transgender community and their needs in relation to domestic and sexual violence.

#### 4.4 Transitioning

WWA recognises that gender transition and reassignment can be a long and emotional processes. WWA recognises that, for some, this process can be exceptionally difficult for the individual concerned, and will meet with the employee at an early stage to discuss how the organisation can support them through the process.

WWA anticipates two instances when an employee may choose to speak to their line manager or another HR representative about transitioning:

- when an employees who has thus far presented as female discloses that she wishes to transition and begin publically identifying as a man; and
- when a trans woman requires further medical treatment

WWA policy for responding to each instance is set out below.

#### 4.5 Female to male transitioning

WWA acknowledges that a female member of staff may choose to transition to become a man and will fully support any employee who makes this decision.



Any member of staff who has taken the decision to go through the transition process can request a meeting with their line manager or a Human Resources representative, and may be accompanied by a trade union representative or colleague if they wish. This meeting will discuss issues such as: employment options during the transition process; taking time off from work for medical assessments and surgical procedures; if and how they wish the process to be communicated to colleagues; employment options after the transition and their longer-term employment with WWA.

With the individual's consent, the line manager should inform relevant senior managers and a HR representative if they are not already involved. The line manager should ensure those informed have read this policy and procedural guidance and seek clarification and support from HR on anything they are unsure about.

Under the Genuine Occupational Qualification (GOQ) provisions introduced by the Sex Discrimination (Gender Reassignment) Regulations, WWA acknowledges the unique situation of a person recruited for a Single Sex GOQ post who starts the gender reassignment process whilst employed in the post.

WWA will work with the employee to discuss alternative action if, under to GOQ they are no longer able to continue in their present post. For example, it may be possible to re-deploy the individual to a different part of the organisation.

WWA is clear that it would constitute unlawful discrimination if we treat an individual undergoing gender reassignment less favourably than someone who is absent for some other medical reason. As such, employees who are transitioning will be able to take time off for medical and/or surgical appointments and treatment in line with WWA's Sickness Policy. Flexible working patterns may be considered, as will requests for unpaid leave.

The individual undergoing transition has the right to privacy, and is not expected to share information about their transgender or transitioning status with their employer or colleagues.

Where an employee chooses to inform colleagues of their status, the employee has the right to choose how this is done and who is informed.

Where appropriate, the employee's line manager may be asked by the employee to hold a team meeting, including everyone in the team along with any other colleague the employee frequently works with and wishes to invite. Alternatively, the employee may wish to inform relevant colleagues individually. In every instance, it is solely the employee's decision as to how and when other members of staff are informed.

Where the employee so wishes, her/his line manager and a senior manager in the organisation should be present to show support when the disclosure is made. The manager should:



- make it clear that the person transitioning is a valuable employee and has the management's full support in making the transition;
- explain WWA's Transgender Policy;
- clarify that, where the transitioning person will continue their employment with the organisation after starting to present as a man, the employee will be a man and should be called by their new name and using new pronouns;
- answer people's questions; ensure that the staff present understand that they are bound by the privacy rules set out in the Gender Recognition Act 2004, whereby the status of the individual undergoing transition will not be discussed with any third party without the prior, explicit consent of the individual changing gender.

It is important that the employee plays as full a part in the announcement as desired, with managers giving their full support.

Where WWA continues to employ an individual who is transitioning, the individual will have the freedom to choose a date at which they expect records to be changed. It may be the day after the first meeting, after they starting presenting as a man or after surgery, or at any other time. Following their request, all records will be changed, including personnel files, sickness files, pay role details, and any other materials held as paper or on an electronic database.

Following the date chosen by the transitioning individual, any remaining information will be changed to reflect their new gender identity – for example, staff lists, organisational charts, post trays, door signs.

#### 4.6 Trans women undergoing further reassignment

WWA recognises that there may be a continued need for transgender people to access medical treatment, or to have additional appointments such as for voice training and electrolysis.

In addition, WWA understands that a transgender employee may not go through hormonal treatment or surgery for gender reassignment until after she commences employment.

In both cases, WWA is again clear that it would constitute unlawful discrimination if we treat an individual undergoing gender reassignment less favourably than someone who is absent for some other medical reason. As such, employees who are transitioning will be able to take time off for medical and/or surgical appointments and treatment in line with WWA's Sickness Policy. Flexible working patterns may be considered as will requests for unpaid leave to accommodate additional appointments, for example, for electrolysis.



#### 4.7 Disclosure and Barring Service (DBS) checks

The Disclosure and Barring Service has to be aware of any previous names and/or gender of DBS check applicants. There is a process in place that allows transgender people to pass details onto the DBS without revealing them to the employer.

The DBS has developed a separate application procedure, which allows all transgender applicants to exclude previous names from the Disclosure Application Form. Applicants are then 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.

All employees and applicants who are required to complete a DBS check must be provided with details of how to make a separate application to the Sensitive Casework Manager. This will ensure that any transgender members of staff are able to make an application without having to disclose their gender status to colleagues.

Under the Gender Recognition Act, volunteers or employees of WWA cannot pass on details of a person's transgender status to a third party if the trans person has a Gender Recognition certificate, but a senior manager needs to be informed if a DBS check reveals any relevant previous convictions. For this reason, it is important that all applications for DBS clearance are to be handled by, and be returned to, the designated WWA Data Protection Officer, who will provide managers with the relevant returns when received.

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.

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.

If there is disclosure of an employee's former name on a DBS clearance return:

- The Data Protection officer should contact the employee or the applicant and inform that disclosure is going to be made to the senior manager, and though their former name and gender will not be disclosed, the nature of the convictions means the senior manager will be able to surmise their former sex.
- Current employees must be given the choice of allowing the disclosure, or resigning from their post. Applicants for employment must be given the choice of allowing the disclosure, or withdrawing their application.

Whether the employee chooses to resign, or the applicant withdraws their application, then the Data



Protection officer must inform the relevant senior manager that there were sex specific convictions on the DBS return.

The Data Protection officer is responsible for telling:

- the employee that if they apply for another similar post with vulnerable people, and WWA is asked why they have left, WWA will not disclose their former name but, subject to the seriousness of the convictions, may emphasise the need for the other organisation to obtain DBS clearance, and that if WWA is asked about their application for employment, WWA will not disclose their former name, but, subject to the seriousness of the convictions, may emphasise the need for the other organisation to obtain DBS clearance.

#### 4.8 Service delivery and access to support

WWA recognises that domestic abuse and sexual violence is a violation of human rights, is a cause and consequence of gender inequality, and has far reaching consequences for families, children, communities and society as a whole.

The Welsh Government Transgender Action Plan consultation responses covered a number of themes: ensuring services are trans and non-binary inclusive; increasing awareness and reporting both within the trans community and within services; ensuring trans voices are included in service design and delivery; and providing gender Identity training for anyone supporting victims of domestic and sexual abuse.

This section of the document focuses on how to ensure transgender service users are able to access and be supported by domestic abuse/sexual violence services, in recognition of the barriers to accessing help experienced by trans survivors of abuse. For example:

- The Scottish Transgender Alliance report 'Out of sight, out of mind?: Transgender People's Experiences of Domestic Abuse' (2010)<sup>2</sup> found although 80% of respondents identified having experienced some form of abusive behaviour from a partner or ex-partner, only 60% of respondents recognised the behaviour as domestic abuse. 76% identified having experienced psychological or emotional problems as a consequence of the abuse, with 24% telling no one about the domestic abuse they experienced. 15% said they had attempted suicide as a consequence of the abuse and 51% thought the most recent domestic abuse they had experienced was "wrong but not a crime".

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<sup>2</sup> [http://www.scottishtrans.org/wp-content/uploads/2013/03/trans\\_domestic\\_abuse.pdf](http://www.scottishtrans.org/wp-content/uploads/2013/03/trans_domestic_abuse.pdf)



As a starting point it is helpful to think about service provision from an inclusion perspective, rather than who is excluded. In relation to enabling transgender people to access services, rather than focussing on where someone might be in their transition journey, provide a service to that person based on how they are defining their gender. This supports a positive and inclusive response to transgender service users and also ensures services are complying with legal requirements.

Services are legally obliged to offer services to all transgender people in possession on a Gender Recognition Certificate (GRC). It is unlawful to treat someone with a protected characteristic (Equality Act 2010) in a discriminatory way, thus it is not acceptable to refuse to provide a service for transgender people.<sup>3</sup> **It is also illegal to require a person to show a Gender Recognition Certificate** before offering them a service, such as refuge, counselling or outreach support. The certificate exists to correct an individual's birth certificate and holds no other legal function in its own right.<sup>4</sup>

WWA is thus committed to promoting equality and diversity within the services we deliver directly to survivors of domestic abuse and sexual violence. This includes ensuring services are delivered appropriately to all transgender people and incorporates the guidance around accessibility outlined above. WWA services will therefore make its services available to all transgender people, regardless of whether they are intending to or have undergone permanent gender reassignment or have full legal recognition under the Gender Recognition Act 2004.

We further support the inclusion of all transgender people in all domestic abuse and sexual violence support services, including refuge services. In the instance of single sex provision, both outreach and residential, transgender people will be supported to access the service which fits with their gender identity. In the instance that services only provide services for women, they will refer and sign post transgender men to the relevant service to ensure they receive support.

The Equality Act 2010 highlights that single sex/gender specific services can only provide a different service or refuse a service to transsexual people under exceptional circumstances and these

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<sup>3</sup> The Equality Act (2010) extended previous legislation to protect someone against discrimination who is undergoing, intends to undergo or has undergone gender reassignment. These protections include all people who have identified that they are planning on permanently changing their sex, not just people who have a GRC, or have undergone medical procedures. This is known as the 'gender reassignment protected characteristic', and is one of the nine new protected characteristics identified in the Act. The additional protections extend recognition of different types of discrimination which people with protected characteristics might experience to include 'harassment by a third party' and 'indirect discrimination'. Furthermore, the Act includes 'discrimination by perception' (direct discrimination against someone because others think they possess a protected characteristic) and 'associative discrimination' (direct discrimination against someone because they associate with another person who possesses a protected characteristic). Stronger Together: Guidance for Women's Services on the Inclusion of Transgender Women 2011

<sup>4</sup> 'Some trans people may apply for a Gender Recognition Certificate but many prefer not to do so for various reasons. Some organisations may mistakenly believe that they are not supposed to change their records to show a trans person's new name and appropriate title (Mr, Miss, etc) until they have obtained a Gender Recognition Certificate. This is incorrect and in most cases would constitute discrimination. Furthermore, nobody is entitled to see or record the details of a Gender Recognition Certificate. If a public authority needs proof of a trans person's legal gender then only the birth certificate should be requested. The Gender Recognition Certificate (GRC) exists only for the Gender Recognition Panel to instruct the Registrar of Births to make a new entry in their register, from which a birth certificate can be drawn. The document states clearly that it has no other purpose'. EHRC (2010) Provision of goods and services to trans people.





circumstances are individual to each case - it is illegal and not acceptable to instate a blanket ban.<sup>5</sup> Whilst this legislation only applies to transsexual people, this policy extends to all who identify as transgender.

If circumstances arise in relation to other service users' discomfort around sharing services with transgender people, services will work to support and educate them in the same way as they would around equality issues generally, such as ethnicity, religion and sexual orientation. It is important that services' Equality and Diversity Policy fully reflect this approach as well as reflecting Sex Discrimination (Amendment of Legislation) Regulations 2008, whereby services have a duty to challenge any harassment of any transgender people.

Where services are not gender specific or are for male victims of domestic violence, they will be accessible and responsive to the needs of all transgender people and to transgender men.

When thinking about accessibility of service provision for transgender people, it is important to consider the other intersecting barriers they might face to accessing the service, such as ethnicity, age, religion, disability, and sexual orientation. The service users' needs a whole must be considered, including the intersecting and multiple forms of discrimination they may be subject to.

#### 4.9 Gender identity and use of appropriate pronouns

When considering whether to ask a service user about their gender identity when assessing for access to services it is important to consider why this information is required and how it will be used. Questions around gender identity can be used on intake, however should not be compulsory and should be asked of all service users or none at all. It should be made clear why you are asking, and how the information will be used and stored.

In some cases, it may not be evident that a service user has changed their gender identity, and the service user may choose not to disclose their gender status. In these circumstances, risk assessing and support planning will be carried out without reference to the individual's gender identity, unless it is of specific relevance/importance. If staff/service feel unsure they can seek further support and guidance from WWA.

The use of appropriate pronouns is outlined helpfully in the EHRC guidance to public authorities, and recommend services, including services which offer telephone/helpline support, ask transgender people which pronoun they would like to be used. They state:

- A person who identifies as a certain gender, whether or not they have taken hormones or had surgery, should be referred to using to pronouns appropriate for that gender.

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<sup>5</sup> Under the Equality Act 2010 the bar for a service provider to discriminate in this way is very high – the use of the exception has to be exceptional. Decisions made cannot be based on personal prejudice but on evidence of detriment to others, and even then the provider will need to show that a less discriminatory way to achieve the objective was not available.



Services will ensure that they promote a positive and learning environment in relation to the inclusion of transgender people into their services. This includes ensuring correct pronouns and names are used in relation to the service user being supported. If an incorrect pronoun is used in error, simply acknowledge this and continue. Making mistake with pro-nouns can happen, however if this occurs continuously or is done purposefully, this would be viewed as discrimination.

Additionally, for services users accessing telephone/helpline support, assumptions should not be made in relation to their gender, based for example on the tone of their voice.

#### 4.10 Meeting transgender service users' support needs

WWA recognises the need for gender-responsive services, informed by evidence from crime statistics and research which shows that domestic abuse and sexual violence is gendered; that is, most perpetrators are male and most victims are female, and the gender of both victim and perpetrator influences behaviour, risk, and the severity of harm caused. Research shows that gender is a significant risk factor, as women are more likely than men to experience interpersonal violence, especially sexual violence, and to experience severe and/or repeated, often life-threatening, incidents of violence and abuse. The majority of domestic homicide victims are female and the majority of perpetrators male.

In some cases, it may not be evident that a service user has changed their gender identity, and the service user will not disclose their gender status. Needs and risk assessment and support planning will be carried out without reference to the individual's gender status.

If an existing service user discloses that they are planning to transition, services - as they would with any service user disclosing relevant information about themselves - will offer support. Remembering that transition is a process (section 1 definitions), it will not likely be necessary to make any immediate decisions about service provision. If the service, such as an identified women only service is no longer appropriate for a service user, for example because they identify as male, other support and services may still be able to be offered. It is important to consider fully the needs of each service user, as part of an overall approach to delivering effective and supportive services.

A service user may choose to disclose their transgender status, and may request specialist support for issues directly relating to their gender identity. As this policy highlights, transgender identity is distinct from sexual orientation, and transgender people have experiences that are distinct from lesbian, gay and bisexual (LGB) survivors of abuse, so some of their support needs may be different.

Organisations which may offer specialist support and advice to transgender service users can be found in **Appendix 2**. This approach to supporting transgender services users in in line with proactive partnership and multiagency working in delivering a co-ordinated community response to domestic abuse and sexual violence.



#### 4.11 Promotion of services

To support the inclusion of all people in service provision, it is helpful to think about how a service handbook frames the service it is offering, for example whether it explicitly references the diversity of people accessing the service, including transgender people. This can also form the basis of conversation during intake and needs assessment processes.

Promotion of services which foster a transgender inclusive approach may also consider their wider publicity material, such as leaflets, training packages for external agencies and websites.

An accessible environment also plays an important role in ensuring services are inclusive. Having promotional and other resource material which is relevant for transgender service users promotes the ethos of a service which is accessible for a diverse range of service users, including transgender service users.

#### 4.12 Monitoring

Services will ensure that standard referral, intake, and output/outcome monitoring systems are explicitly inclusive and able to capture relevant transgender data, and that services are monitored and evaluated in terms of provision to transgender people and their satisfaction with the service provided.

Transgender people (which as outlined within section 1 includes transsexual people, who may or may not be in possession of a Gender Recognition Certificate), do not need to show a Gender Recognition Certificate in order for their name or gender on service documentation to be changed, such as on profile data bases, support and monitoring forms etc.

The Gender Recognition Act 2004 requires people to live fully in their acquired gender for 2 years before applying for a certificate. Neglect or refusal to do this may prevent or delay a transgender person from being able to apply for a Gender Recognition Certificate, so it is important that names and gendered title are amended as soon as the service is made aware that they have changed.

#### 4.13 Disclosure and confidentiality

As highlighted in section 3.9 of this policy, it is a criminal offence to inappropriately disclose information which they have acquired in a professional capacity about a person's gender history or possession of a Gender Recognition Certificate. This principle extends to information about all transgender people and should be highlighted in service's data protection policy.

It is up to individuals to decide who to tell, and when and how to tell services about their gender identity. We will always seek permission of the transgender person before disclosing any information to others. This should be on a confidential, strictly 'need to know' only basis.



When information about a service users' gender identity is disclosed this should be used for support purposes only and services must show that they are able to hold this information confidentially within their filing/data base systems.

#### 4.14 Discrimination and harassment

In line with services existing anti-discrimination/harassment policies and procedures, services will not tolerate any discrimination against or harassment of transgender/trans service users. This includes direct harassment targeted at a particular person who is known to be transgender, and also transphobic language, jokes or actions which create a hostile environment. Relevant policies should be clearly discussed with both staff and other service users and form part of a services framework of inclusion and respect.

Services will aim to create a safe environment for transgender people to disclose, and to generate open discussion about gender to promote greater understanding and combat discrimination against transgender service users. This is essential in residential services where families live in close proximity. A service user's transgender status may be unintentionally revealed, for example, through the shared use of facilities such as the bathroom.

WWA acknowledges that a transgender person may enter a service without their transgender status being disclosed. We further understand that transgender people are under no obligation to, and may not wish to, disclose their status. As highlighted in section 12 of this policy, non-disclosure, or subsequent disclosure, are not grounds to withdraw the service.

#### 4.15 Staff support and training

WWA will take all measures possible to support staff who are supporting transgender service users to enable them to tackle discrimination and harassment.

Services will ensure staff, trustees and volunteers receive training, as part of their induction programme, on transgender people's rights including the right to dignity, decency and respect, as embodied as the FREDA principles: **fairness, respect, equality, non-discrimination and the right to personal autonomy**. Staff will also receive training around data protection equality and diversity as outlined in the equality Act 2010 and the Gender Reassignment Act 2004.

WWA is committed to providing guidance and consultancy in relation to this policy and procedural guidance to ensure it is implemented to best effect.

#### 4.16 Policy and advice

In our role as a provider of policy and advice to the domestic and sexual violence sector, WWA will ensure that:

- Policies and guidance on services for transgender people are based on consultation and close partnership working with specialist transgender services and those who receive the services, and positive steps are taken to include a diversity of groups in the process;



- Policies on transgender people's access to services takes account of current and latest research in the area;
- WWA promotes access to services that are flexible and responsive to the needs of transgender people;
- Information on transgender people and their needs for services and specific needs in accessing refuge services is widely available; and
- Training on transgender/trans equality in service delivery in WWA is developed and promoted across the sector.

## 5. Related Policies

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Equal Opportunities and Diversity; Data Protection; Safeguarding; Case Management; Recruitment and Selection; Code of Conduct; Contract of Employment; Training and Development; Complaints and Grievance; Capability and Disciplinary.



## 6. Appendices

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### Appendix 1: Glossary of terms

Below is a list of some of the terms that you may come across (please note this is not an exhaustive list). As highlighted in this document, language can be an emotive issue, with different people feeling comfortable using different words and nouns to describe their gender identity. It is therefore important to be respectful of the language that you use and ensure that transgender service users are referred to using the language that they identify with.

**Sex:** this term refers to biological and anatomical characteristics, which can be defined as female, male or intersex.

**Gender:** the socially constructed roles, behaviours, activities and attributes that a given society considers appropriate for one's sex.

**Gender identity:** a person's internal sense of where they exist in relation to being boys/men or girls/women.

**Gender expression:** a person's external gender-related clothing and behaviour (including interests and mannerisms).

**Sexual orientation:** is a term used to describe a person based on who they are emotionally and physically attracted to. For example, transsexual women can be described as straight if they are attracted to men, lesbian if they are attracted to women or bisexual if they are attracted to both men and women.

**Transgender (trans):** This is an umbrella term used to describe a whole range of diversity of gender identity and expression, including transsexual, intersex and cross-dresser.

**Transsexual:** this is a medical term used to describe people whose sex and gender do not match up. This means someone whose biological sex is female, but whose gender is male or someone whose biological sex is male, but whose gender is female. Transsexual people often feel like they were born in the wrong body. This can be extremely distressing. Many transsexual people have hormone treatment and surgery to align their sex with their gender. The term transsexualism is also known as gender identity disorder and gender dysphoria.

**Intersex:** this is a term used to describe people who are born with chromosomal anomalies or ambiguous genitalia. Intersex people are usually assigned a male or female gender as babies by medical staff. Sometimes this works and the person's gender identity matches their assigned gender, but sometimes intersex people can develop gender identity issues because they have been assigned the wrong gender. Some intersex people do not identify as male or female, but as intersex.



**Cross-dressing people:** this is a term used to describe people who dress, either occasionally or more regularly, in clothes associated with the opposite gender, as defined by socially accepted norms. Cross-dressing people are generally happy with the gender they were labelled at birth and do not want to permanently alter the physical characteristics of their bodies or change their legal gender. They may dress as the opposite gender for emotional satisfaction, sexual pleasure, or just because they feel more comfortable doing so. Crossdressing men are sometimes referred to as transvestite men; however this is becoming an increasingly outdated term and may cause offence.

**Androgynous people:** this term refers to individuals whose gender identity does not conform to traditional ideas of gender as a binary. They may therefore feel uncomfortable thinking of themselves as simply male or female (may also be referred to as polygender or third gender).

**LGBT+:** this is the acronym commonly used to talk about lesbian, gay, bisexual and transgender communities.

**Transphobia:** this term describes an irrational feeling of fear or hatred towards transgender women and men and could also describe discriminatory behaviour towards transgender people.

**QPOC/QTPOC :** 'Queer Person of Colour' or 'Queer/Trans Person of Colour'. A term used by people who identify as both BAME and LGBT. Often used in recognition of intersectionality- the interplay of multiple oppressions/marginalised identities.

**Gender reassignment (transition):** is the term used to primarily describe when transgender people are moving from their assigned gender at birth to their current gender. For example a person undergoing gender realignment surgery may be described as being in gender transition. This may involve medical treatment in the form of hormones or surgical procedures.

**Gender Reassignment Certificate (GRC):** is a document that provides legal recognition of a transsexual person's acquired gender. It can be sought once someone has lived in their acquired gender for two years.

**Gender queer:** an umbrella term often used by people whose gender identity is outside of, not included within, or beyond the binary of 'female' and 'male'. May include people who identify as gender fluid or gender neutral, as well as in other ways.

**Cis gender:** a person whose gender identity matches the biological sex they were assigned at birth, i.e. they are not transgender.

\*The asterisk symbol is sometimes used after 'Trans\*' or 'LGBT\*'. This indicates that these terms are being used as umbrella terms and recognises that there are multiple and shifting other identities that fall under these headings.



## Appendix 2 - Further Support

### Wales Live Fear Free Helpline

For survivors of domestic abuse and sexual violence, run by Welsh Women's Aid and funded by Welsh Government. [www.livefearfree.org.uk](http://www.livefearfree.org.uk) or call 0808 80 10 800

### Welsh Women's Aid

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

### Broken Rainbow

<http://www.broken-rainbow.org.uk/>

0300 999 5428

### Galop

<http://www.galop.org.uk/wp-content/uploads/2011/05/final-shine-report-low-res.pdf> **Shining the Light: 10 keys to becoming a trans positive organization.** This resource is aimed primarily at LGBT organisations and contains extremely useful advice and information that can be used by a range of services.

### Specialist trans organisations

The following specialist organisations provide more information and/or support.

#### Transgender in Wales

Transgender in Wales offers information, advice and support to Transgender people in Wales.

Tel: 01792 346299

Disabled Access: Yes

Website: <http://www.tiw.unityproject.org.uk>

Email: [tiw@unityproject.org.uk](mailto:tiw@unityproject.org.uk)

#### Unity Identity Centre Wales

Service which supports transgender people, service providers, employers and equality organisations to engage together to improve gender identity and gender reassignment equality, rights and inclusion in Wales.

Tel: 01792 346299

Website: <http://www.unityproject.org.uk/>

#### Youth Cymru Trans\*Form Cymru project

Empowers and supports trans young people to access their rights and to provide support to youth-facing organisations to address discrimination and exclusion often experienced by trans young people in Wales. Trans\*Form Cymru have produced a toolkit containing guidance for youth work organisations and a selection of resources to use with young people to promote awareness of equality and diversity <http://youthcymru.org.uk/transform-cymru/>

#### Depend

Depend is a support network linking friends and families of transsexual people.

Website: [www.depend.org.uk](http://www.depend.org.uk)

Email: [info@depend.org.uk](mailto:info@depend.org.uk)





## Cymorth i Ferched Cymru Welsh Women's Aid

Rhoi Merched a Phlant yn Gyntaf  
Putting Women & Children First

### **The Gender Trust**

The Gender Trust is a registered charity which supports all those affected by gender identity issues.

Website: [www.gendertrust.org.uk](http://www.gendertrust.org.uk)

Email: [info@gendertrust.org.uk](mailto:info@gendertrust.org.uk)

Helpline: 0845 231 0505

### **Gender Identity Research and Education Society (GIRES)**

GIRES provides training, literature, website content and policy advice.

Website: [www.gires.org.uk](http://www.gires.org.uk)

Email: [admin@gires.org.uk](mailto:admin@gires.org.uk)

### **Mermaids**

Mermaids is a family support group for Children and Teenagers with Gender identity Issues.

Website: [www.mermaids.freeuk.com](http://www.mermaids.freeuk.com)

Email: [mermaids@freeuk.com](mailto:mermaids@freeuk.com)

### **Press for Change**

Press for Change is a political lobbying and educational organisation, which campaigns to achieve equal civil rights and liberties for all trans people in the UK.

Website: [www.pfc.org.uk](http://www.pfc.org.uk)

Email: [editor@pfc.org.uk](mailto:editor@pfc.org.uk)

### **Stonewall Cymru**

Stonewall Cymru campaigns for the equality of lesbian, gay, bisexual and trans people across Britain.

Website: [www.stonewallcymru.org.uk/](http://www.stonewallcymru.org.uk/)