

Corporate Ref.	CPP 016
Level	Three
Senior Responsible Officer	Vice Principal Innovation, Planning & Performance
Version	1
EIA	20/12/2023
Approved by	SMT
Approved date	26 October 2023
Superseded version	N/A
Review date	October 2026

Trans and Non-Binary Policy and Procedure

Supporting trans and gender diverse employees and students

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Version Control

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1. Purpose

- 1.1 Edinburgh College is committed to equality of opportunity and to a culture that respects difference. We are committed to providing an inclusive ethos and environment, where everyone feels welcome, safe, supported and respected.
- 1.2 The Trans and Non-Binary Inclusion Policy has been developed to provide support and understanding for individuals who wish to, have taken or are intending to take steps to present themselves in a gender different to that registered at birth, **whether in a binary or non-binary way** and includes those people who are intersex and gender diverse. It also provides guidance and support to all employees providing support to others who are transitioning.
- 1.3 Under the Equality Act 2010, a person has the protected characteristic of gender reassignment where the person is proposing to undergo, is undergoing, or has undergone a process (or part of a process) to reassign their sex. Individuals are protected from discrimination, harassment or victimisation, whether or not they have or intend to undergo a medical procedure. Gender reassignment is a **social transition process** and not a medical one, although, in some instances, it may involve medical procedures.
- 1.4 Edinburgh College recognises that transitioning whether medically or socially can be a difficult and complex time for an individual and wish to act in a sensitive and supportive way by having helpful policies and practices in place.

- 1.5 This policy applies to all members of the College community including current and potential employees and students, visitors, board members and people contracted to work at or for the College.

2. Scope

- 2.1 The Equality Act 2010 lists Gender Reassignment as one of the nine protected characteristics. The legislation makes it unlawful to discriminate, harass or victimise someone because they are intending to, taking steps to or have undertaken transition from one sex to another. This includes the use of facilities that match the sex to which they identify. This legislation does not protect those who are gender diverse or identify as non-binary.
- 2.2 The Gender Recognition Act 2004 prohibits the disclosure of someone's gender history and the fact that they have applied for a gender recognition certificate. Disclosure is a criminal offence.
- 2.3 The Data Protection Act 2018 controls the use of personal data and includes the misuse of personal data relating to an individual's transitioning.
- 2.4 The Hate Crime and Public Order (Scotland) Act 2021 makes provision about the aggravation of offences motivated by prejudice, malice or ill-will towards a person based on their actual or presumed membership of a particular group, defined by reference to a listed characteristic. The listed characteristics are age, disability, race, religion, sexual orientation, transgender identity and variations in sex characteristics.
- 2.5 The Human Rights Act 1998 supports the rights and needs of trans and non-binary people to live their lives in their true gender identity.
 - Article 3: protection against degrading treatment.

- Article 8: right to respect for private life and family life.
- Article 10: freedom of expression.
- Article 14: the prohibition of discrimination.

3. Procedure

3.1 Applying and Commencing Employment or Study

Anyone going through the application/recruitment process while transitioning, or requesting a change of personal details upon accepting an offer from the College, will be supported and sensitively dealt with while complying with all necessary name verification processes for awarding bodies.

3.2 Preparing for Transition

The College understands that the process of transitioning is challenging, trans identities are diverse, and that support must be flexible and tailored to the individual. The College will advise students and employees about the process and options in relation to changing their name.

3.2.1 Students

When a student makes the decision to transition, the first step would be to contact Student Experience, who can provide practical guidance and signpost to other services, if necessary. A designated Student Experience employee will inform the student about the support available within the College. The employee can also discuss and agree an action plan with timescales if the student feels this is appropriate.

The action plan can include:

- Key dates for medical appointments. This does not include details of the type of medical appointment, however an idea of time off from studies to attend and recuperate will help determine the support

that might be needed to allow them to continue and complete their studies.

- A planned start date of when the student will start to present in a different gender, whether full time or part time.
- A summary of how and when the student's information will be shared and managed, for example, how other students, employees and other contacts will be told.
- Considerations to limit the impact on the student's learning and adjustments to attendance, deadline or assessments. Addressing cultural issues that may impact should also be considered.
- Changes to the student record and identity, including email address and titles, how and when these will happen. If a student does not want to make a formal change to their student record, there is an option to change their name on certain systems but not all.
- Process for reporting abuse, bullying or harassment because of transitioning.

3.2.2 Employees

When an employee makes the decision to transition, their first step would be to contact their line manager to discuss the steps needed for sensitive and effective transition. HR can also be contacted for confidential advice. Best practice would be to develop an agreed support plan similar to that for students and may include:

- Key dates for medical appointments if needed. This should include any time required for reassignment surgery and recuperation.
- A planned start date of when the employee will present in their chosen gender.
- Steps on how and when other employees will be informed.
- Changing personal details, names, titles etc. and how the information will be stored.

- Reasonable adjustments to working environment/activity to support any medical interventions needed for re-assignment (this must be based on the individual's own circumstances)
- Process for reporting abuse, bullying or harassment because of transitioning.
- Any impact on their job and how this will be managed.

3.3 Changing Personal Details

Changing names and titles is a significant step for anyone transitioning.

There are two levels of name change:

- Informal – when a person changes to be ‘known as’ i.e.: how they will move around the College in class or on Teams only.
- Formal – when a person fully and formally changes their name.

The informal name does not change the legal identity of the individual on employee or student records but may be a useful first step for the individual in living in their new identity.

The formal change of employee and student records is necessary if an employee wishes to change their HMRC/Pension records, or a student wishes to be registered and certificated in their new name. This step needs to be supported by evidence of a legal name change:

- Statutory Declaration of Name Change
- Deed Poll
- Current passport
- Photo driving licence
- Identity card
- HMRC Tax Notification
- Young Scot National Entitlement Card
- Benefits entitlement letter

Please note that further evidence may be required depending on the awarding body rules and regulations. A person must report any changes in circumstances if in the UK with immigration permission and have either:

- a [biometric residence permit](#) (BRP)
- applied for a BRP but have not had a decision yet.

3.3.1 Students

Informal – to change a name in this way, please contact Student Records, they will in turn contact the appropriate teams. This option will not change formal College records and names that appear in exam registers / certificates / awards will remain the same as the formal name in student records. Any identity verification conducted by awarding bodies will be done in the person's legal name.

Formal – for students wishing to make a legal change to their name and gender on official College records, they must submit a completed [Change of student name and/or gender form](#) to Student Records along with a valid ID, with the new name, as specified above. It is important to note that the College is required to notify the awarding body and the changes may need time to be processed.

Please note a letter of consent from parent or carer will be required if the student is under 16 years of age.

For those students who are part of the Schools College Partnership, they will need to follow the process of their own school.

Students with Student Visa are required to inform [UK Visas and Immigrations \(UKVI\)](#) of any legal name change.

They will also be required to provide the following evidence to meet awarding body requirements:

- Passport
- Visa / BRP / Residence Card

3.3.2 Employees

Informal – employees can update their name, as they want to be known as, on iTrent.

Formal – employees who wish to change their name can do so by contacting HR and completing the change of personal details form.

By submitting the form, necessary changes can be made to email details and personnel files. It is only accessible to certain members of HR and is confidential. Proof of change of names or gender, through deed poll or by other legal means, is required to provide formal information for pay and pension providers. Please refer to [HMRC guidance](#) on gender change.

3.4 Appropriate Language

The College is proud that we have a diverse population of employees and students in terms of age, disability, gender identity, race, religion or belief, sex, sexual orientation, geography or other types of backgrounds. Whilst everyone is expected to be sensitive and supportive to trans and non-binary members of our College community, it is recognised that not everybody will be aware of the most appropriate contemporary language to use in relation to gender identities. The College considers the following points as the minimal level of good practice for all employees and students to adhere to:

- Trans individuals should always be referred to by the name they tell us they want to be called, not any other name.

- Trans individuals should always be referred to using the gender pronoun (he/she/they) that they tell the College to use. If unsure what the correct pronoun is, the person should ask the individual. For example, 'how would you like to be addressed' or 'how should I refer to you when speaking to others?'
- It is inappropriate and outdated to use the terms 'sex-change' or 'pre/post-operative'. This is because it implies that the process of transition must involve some form of surgery, which may not necessarily be the case.
- If a trans individual informs someone at the College that a word or phrasing is inappropriate or offensive, then the person should take their word for it, and adjust their terminology accordingly.
- Personal questions should not be asked unless they are relevant and with the individual's permission. Questions such as 'are you taking hormones?' can be considered personal or offensive.

3.5 Bullying and Harassment / Transphobic Incidents / Discrimination

All forms of harassment and prejudice are unacceptable and, wherever possible, we will deal with these in line with College policies and procedures. Examples of transphobic bullying, harassment, victimisation could include:

- Deliberately or continually misusing an individual's gender pronoun or name (mis gendering)
- Using abusive transphobic language
- Disclosing someone's trans status without their permission
- Making derogatory comments about an individual, their appearance etc.
- Deliberately isolating or avoiding someone
- Intrusive questioning about an individual's trans status

Any hate or transphobic incidents can be reported anonymously or with contact details. The forms are available on the [College's website](#).

3.6 Sickness Absence

Where an employee or a student is absent due to undergoing surgical reassignment procedures, this will be recorded as sickness absences. This includes procedures related to transitioning and follows best practice advice.

3.7 Use of Facilities

Trans or non-binary employees, students or visitors are welcome to use single-sex changing rooms or toilets according to which one they feel most comfortable in, or that they feel is most appropriate for them. They should not be prevented from doing so.

The Colleges' accessible changing or toilet facilities across campuses are inclusive and gender neutral.

The College's halls of residence are all mixed gender.

3.8 Uniforms/Dress Code

Trans or non-binary individuals should be supported in wearing the clothing they feel best represents their gender identity, in line with any uniform/dress policy. If they study or work in an area that requires a uniform, they can discuss with their tutor / lecturer / line manager about ordering new uniform items.

3.9 Sports

The College is committed to the inclusion of trans and non-binary people in sport and physical activity. Competitive sports may be subjected to rules and regulations of individual sport councils. Please

refer to [Equality in Sport](#) for further guidance on inclusion of trans people in sports.

3.10 Gender Recognition Certificates

Some employees or students who have transitioned may choose to obtain a Gender Recognition Certificate (GRC) although this is not a requirement for updating records at the College.

When a person receives a GRC, they have the right to request that all references to their former name and gender are removed from old records to ensure their former identity is not revealed. All records held on file must be found and replaced with new records, for example birth certificates or original offer letters. It is illegal for documents to remain on file that would disclose to a third person that a change has occurred.

3.11 Reissuing Qualification Certificates

Edinburgh College's students can contact the awarding body directly to have their certificate(s) reissued in a different name. Some awarding bodies may charge a fee. If the certificate is issued by Edinburgh College, they should contact Student Records. Any original certificate(s) may need to be returned to the awarding body or the College, respectively.

If the student had not informed us previously, we would require the following documents:

- A signed [Change of student name and/or gender form](#).
- A letter of consent from parent or carer if the person is under 16 years of age.
- A Statutory Declaration of name and gender change or other approved forms of ID.

Please note the Scottish Candidate Number (SCN) will remain the same.
A Gender Recognition Certificate is not necessary.

3.12 References

Former employees or students can request references in their new name but will need to contact HR or Student Records respectively and again send proof of the name change. Employees must not disclose the person's gender history, previous name or fact that they have transitioned in any references. Employees or students are also entitled to have any online records or biographies amended.

4. Rights and Responsibilities

4.1 All trans and non-binary employees and students have the right:

- to choose whether to disclose their gender identity, to whom they disclose it and the circumstances under which they disclose it.
- to request the College update documents, records and systems to reflect their new gender role.
- to have access to opportunities, courses, placements and fair and equal treatment regardless of their gender identity, expression, or because they propose to or have transitioned. In relation to international placements, there may be a need for a risk assessment to ensure safety of the individual. This would also apply to other non-trans employees and students.
- to be provided with opportunities for employment, promotion or redeployment in the same fair and equal manner as their non-trans colleagues.

4.2 Managers, tutors or lecturers must:

- respect the confidentiality of the individual in relation to their gender identity or status.

- be supportive of anyone going through any medical process to reassign their gender and provide direction to wider College support where necessary i.e. line manager for employees, Human Resources, Student Experience, Equality, Diversity and Inclusion (EDI) Lead, Counselling and Wellbeing services, or the Employee Assistance scheme, MCL Medics for employees. MCL Medics is open to all employees and their families (18yrs+). This free service is available to anyone at the College for confidential support. Freephone 0808 196 1441 or visit [the website](#) (Password: WelcomeEDBC).
- support anyone wishing to change their name, records etc.
- recognise the courage and ramification to change or present in a different gender to that recorded at birth.
- challenge any transphobic conduct in the work and study environment and deal with it appropriately.
- consider any mitigating circumstances in relation to undertaking gender re-assignment – this could be in relation to absence for medical or surgical procedures; having to address issues affecting the culture in which they are studying or working.

4.3 Employees and students must:

- respect the confidentiality of individuals in relation to their gender identity or status.
- inform their line manager, tutor or lecturer of any support they may need in relation to transitioning or gender identity. Where they do not feel comfortable disclosing matters to their line manager, tutor or lecturer, they can seek support from Edinburgh College Students' Association (for students), their union (for employees who are members of a union), the HR Department (for employees), the EDI Lead or Student Experience, who will provide that support.
- comply with the College policies in relation to behaviours, including non-transphobic behaviours.

- have the right to report any incidents of transphobic behaviour and for that report to be dealt with appropriately. This would be taken forward through the Hate and Misogyny Incident Guidance.

4.4 The College will:

- respect the confidentiality of all trans and non-binary employees and student identities and will not reveal information relating to their trans status without prior agreement with the individual.
- provide a supportive environment for employees, students, and visitors who wish their trans status or non-binary gender identity to be known to others.
- ensure that transphobic bullying, harassment, discrimination, victimisation and abuse are unacceptable and dealt with through the [Hate and Misogyny Incident Guidance](#).
- take steps to ensure that the environment for its students, employees and visitors reflects the diversity of the College community.
- ensure that changes to employees and student titles, name and gender on records are handled promptly and confidentially as required in legislation.
- HR and Payroll will ensure that all records of an employee's previous details, name, gender etc. are stored securely and separately from their current personnel record.
- include gender identity in equality training.
- take steps to ensure that curriculum materials do not rely on or reinforce stereotypical assumptions about trans and non-binary people and that the material is inclusive.
- ensure trans and non-binary employees, students and visitors have safe use of facilities and in line with legislation.
- through placement co-ordinating teams and international business, ensure that in relation to placement and overseas work, employees and students are fully aware of the cultural and political position of the host country in relation to trans matters, and a thorough risk

assessment is undertaken and that hosts are aware of College policies and procedures.

- take active steps to provide ongoing support for trans and non-binary employees and students in placement or working internationally.

4.5 The Board of Management is responsible for the overall fulfilment of the College's statutory equality duties and oversees the implementation of this policy throughout the College.

5. Breach of Policy

5.1 The College will not tolerate any instances of unlawful discrimination, harassment or victimisation by any member of the College community.

5.2 The College will ensure that any incidences of unlawful discrimination, bullying, harassment or victimisation are dealt with using the appropriate College behaviour, disciplinary and complaint procedures.

5.3 The College will offer advice and support to any member of the College community who feels they have experienced unlawful discrimination, harassment or victimisation.

5.4 Any data protection or information breach may lead to disciplinary action being taken against the person in accordance with the College disciplinary policy and/or legal proceedings.

6. Assurance

6.1 This policy will be reviewed following any relevant changes to employment law or once every three years as a minimum.

6.2 This policy will be reviewed and approved by the Senior Management team.

6.3 If you require this guidance in a different format, please contact equality@edinburghcollege.ac.uk.

End of document