

## P21 Gender Identity Policy

### 1. Introduction

This protocol explains The Purcell School's approach to transgender and gender identity matters within the school, sets out briefly the school's legal obligations in this regard and provides some guidance in relation to some of the practical issues that might arise in this area.

This protocol applies to all year groups at the school.

This protocol should be read in conjunction with the school's other policies including the Admission's Policy; School Rules; Bullying Policy; Child Protection and Safeguarding Policy; Peer-on-Peer Abuse Policy; Equality and Diversity Policy; Relationship & Sex Education Policy.

### 2. Background

The Purcell School is committed to promoting an inclusive, safe and happy community where everyone feels welcome and can thrive. This commitment underpins all that we do. We expect all members of the community to treat one another with mutual respect and to celebrate difference.

Gender identity is an issue which may impact on some members of the school community. It can be a sensitive topic and one about which there are differing views.

The school recognises that pupils may articulate their gender identity in different ways (and that this may change over time), for example, by expressing that their gender identity is different to the sex they were assigned at birth or by expressing that their sense of self does not fit with the idea of binary gender at all.

Transgender or trans is a term commonly used to describe people whose gender identity is different from the sex assigned (registered) at birth. A range of terms are used to describe different gender identities and an explanation of some of the current vocabulary is included at the end of this policy (while recognising that this is an evolving area).

**For simplicity, we will use the term 'trans student' to refer to pupils who have expressed an intention to identify with a gender that differs from the sex they were assigned at birth.**

### 3. Principles

- The safety and wellbeing of pupils is the school's priority and their welfare will always be the paramount consideration.
- The school is committed to equality, diversity and inclusion and creating a welcoming, tolerant and respectful school community where everyone can thrive. The school has a zero-tolerance approach to bullying (whether related to gender, sex or otherwise).
- The school is committed to challenging stereotyping including on the basis of sex or gender.

- The school recognises that the question of gender identity is a complex and personal one and – to the extent it might impact on a student’s life at the school or wellbeing – will require a tailored approach developed in consultation with the student in question and, where appropriate, the parents or guardians.
- The school will always seek to cultivate an open and constructive dialogue with parents or guardians.

## Legislation and guidance

This protocol has been prepared with reference to relevant legislation and statutory and non-statutory guidance:

- The Equality Act 2010
- Keeping Children Safe in Education 2023
- Guidance from the Equality and Human Rights Commission
- Relationship and sex education (RSE) and health education statutory guidance
- Data Protection Act 2018 (and UK General Data Protection Regulations 2018)
- The Brighton and Hove Trans Inclusion Schools Toolkit (2021)
- The Cornwall Transgender Guidance<sup>1</sup>.

## The Equality Act 2010

This act ensures legal protection against discrimination, harassment and victimisation for everyone who has one or more of the specified ‘protected characteristics’. Under this act we must ensure that our admissions and our provision of education, benefits, facilities and other services do not unlawfully discriminate (either directly or indirectly via policies, applied criteria or practices), harass or victimise students on the basis of any of the protected characteristics. There are nine protected characteristics under the Act, including gender reassignment and sex. Under the Act, a student’s legal sex (when they are under 18) will be their natal sex i.e. that which they were assigned at birth by reference to biological tests. After 18 a person can obtain a gender recognition certificate pursuant to the Gender Recognition Act 2004, and, as a consequence, their sex becomes their “acquired gender” (i.e. the gender in which they are living).

‘Gender reassignment’ is defined as follows: *“a person has the protected characteristic of gender reassignment if the person is proposing to undergo, is undergoing or has undergone a process (or part of a process) for the purpose of assigning the person’s sex by changing physiological or other attributes of sex.”*

The Equality & Human Rights Commission confirms that an individual need not have “*undergone any specific treatment or surgery to change from [their] birth sex to [their] preferred gender. This is*

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<sup>1</sup> There is, at the time of writing, no governmental statutory or non-statutory guidance designed for schools specifically on transgender issues and issues of gender identity, and very limited reliable guidance at the local level or otherwise. The Cornwall Guidance (most recently updated in 2015) has been drafted by a collaboration of Cornwall County Council, The Intercom Trust, Devon and Cornwall Police and Cornwall head teachers. It is referenced as a helpful resource in the Department for Education’s “The Equality Act 2010 and Schools” departmental advice. The Brighton and Hove Trans Inclusion Schools Toolkit (2021) was agreed by the Brighton & Hove City Council’s Children, Young People and Skills Committee.

*because changing your physiological or other gender attributes is a personal process rather than a medical one.” The individual can be “at any stage in the transition process – from proposing to reassign [their] gender, to undergoing a process ... or having completed it.”*

This means that any student who is legally one sex but makes clear an intention to identify with another sex (including by expressing a non-binary or gender non-conforming or gender fluid identity) is likely to have the protected characteristic of gender reassignment, be protected under the Act and should not be subject to unlawful discrimination as a result.

**The Data Protection Act 2018** - information about a transgender person’s status could be included under ‘special category data’ and is therefore subject to tighter controls than other personal data. The Purcell School will ensure that any such data is processed in accordance with all relevant data protection laws and the school’s own Data Protection Policy, Privacy Notice and Safeguarding Policy. In any event, matters relating to a pupil’s gender identity will be handled with sensitivity and confidentiality, and in accordance with relevant policies.

### **Discrimination and bullying**

The Purcell School does not discriminate against students on the grounds of their sex or transgender status and acknowledges that the Equality Act 2010 applies to employment and provision of education (as set out above).

The Purcell School has a number of policies which will guide its response to any allegation of discriminatory behaviour. These include:

- Child Protection and Safeguarding Policy
- Bullying Policy
- Peer-on-Peer Abuse Policy.

Any trans-phobic, sexist or other discriminatory incidents should be recorded and dealt with in the same manner as other incidents motivated by prejudice, based on characteristics such as race or sexuality.

### **Our approach**

It can never be the school’s role to encourage or discourage a pupil to take a particular decision concerning their gender identity or expression of it. Our role is to create a supportive environment for any student who is questioning their gender identity, identifying as trans or is seeking to identify as a different gender from their natal sex, in whatever way.

Students should feel able to speak to school staff and their fellow pupils about these issues and be responded to in a respectful and supportive manner. As noted above, the welfare of students is paramount and will always guide our response.

The Purcell School will comply with its legal obligations towards any trans student. Any trans student will be treated on an individual basis with the response based on the guiding principles of achieving best outcomes for the welfare and wellbeing of the individual concerned within the school community. The wishes and needs of a trans student will be accommodated to the extent reasonably possible and practicable, taking into account all relevant factors – including the

school's legal and regulatory obligation and its duties towards the wider school community, including the welfare and needs of other students.

Appropriate support will be made available to any trans pupil in consultation with them via our pastoral teams and through external experts, as appropriate, and in accordance with our Safeguarding Policy.

All students can expect, at all times, to be treated with respect and kindness - and should expect to treat others in the community in the same way.

The school recognises that transitioning or questioning one's gender identity will be personal to each individual student and may include any number of changes to a person's life which could change over time. We acknowledge that each transgender student's journey is individual and therefore the support that they need or want will vary. However, we have set out some general guidance below, addressing the key issues which are likely to arise in the school environment.

### **Confidentiality and information sharing**

Communication with the individual student about their needs and circumstances is crucial to informing the school's response. Ideally, we would wish to work in close partnership with parents and guardians and we would encourage (especially in cases where the student is under the age of 16) to have an open dialogue between students and parents/carers. In most cases, the school would look to extend this communication to a student's parents and guardians from the earliest stage, such that a supportive group of adults can work together to achieve best outcomes for the student.

However, we acknowledge that to the extent the school considers that a student has sufficient maturity and capacity, it is entitled to respect the student's wishes in relation to who they discuss their gender identity and any related concerns with and their wishes about what information is shared by the school, when and with whom. In such cases information would ordinarily not be shared with other staff, parents/carers without the student's permission unless there are safeguarding reasons for doing so.

There may be cases where involving a student's parents would create a risk of harm to the student concerned; in such cases the school's obligation to safeguard the welfare and wellbeing of the student must take precedence.

Information about a student's gender identity is sensitive and should be processed appropriately in accordance with the school's Data Protection Policy, Privacy Notice, and Safeguarding Policy. In all cases the wishes of the pupil should be sought and taken into account and proper regard given to the student's maturity and capacity and expert advice sought, as appropriate. As there may be situations where information will need to be shared with parents, guardians or others, staff should ensure at the outset that no promises of absolute confidentiality are made to the student. We will liaise with external agencies as appropriate, such as social care and CAMHS so they can provide the best support they can for both the student and the family. Confidential information about students must not be shared with other parents unless necessary and any queries or questions from other parents should be referred to the Principal or DSL.

Any member of staff who is told by a student that they are questioning their gender or have a particular gender identity should respectfully acknowledge the information and ask the student's permission to share the information with senior leaders, such as the Head of Sixth Form, Director of Boarding or Houseparents, as appropriate. This will promote a coordinated, consistent and transparent approach to the needs of the individual, while respecting the need for sensitivity and confidentiality.

### **Name changes and different pronouns**

Where a trans student wishes to change their name and pronouns, this will be carefully considered by the Purcell School as we acknowledge that respecting these wishes, wherever practicable, is an important part of supporting and validating an individual's identity.

The Purcell School accepts that a formal name change (i.e. by Deed Poll) is not required for us to refer to a student by their preferred name and profile where requested. Where appropriate, we will work with the trans student to agree how to communicate and implement any change agreed. In terms of process, a trans student should work with an assigned member of staff, who can coordinate communications, authorise adjustments, establish timelines for change and provide a central point of contact and advice for both the student and members of the wider school community, including staff, as appropriate.

Where any agreement has been reached about a change to a trans student's name, we will seek to ensure that this is recognised formally on our internal systems to the extent possible, to minimise mistakes. Where mistakes are made and identified, staff should apologise.

If a pupil wishes to have changes to names and pronouns recognised formally on the school's systems this will normally need to be done in consultation with the parents/carers, as letters home and other communications with parents and guardians will reflect the system change.

'Internal systems' should consider the following:

- SIMS - used to generate academic and music registers
- House-generated registers, room-lists/plans and sign-in books, including Fire Lists
- Student photo identity cards
- Main IT network account, print account, Google workspace, including classroom and Gmail
- Safeguarding and school medical records.

A trans student may be required to use their legal name, even if the student is using a different name at The Purcell School, for formal external examination registration (academic and music). In these circumstances, we would speak with the student and, where appropriate, their family and liaise with the relevant examination bodies to clarify the situation.

### **School Uniform**

All students are expected to follow The Purcell School's guidelines on school dress at all times. The absence of a formal school uniform enables students a considerable degree of leeway in what students choose to wear, and many students use this as a means of self-expression, including in relation to their gender identity.

## **Boarding**

Boarding provision at The Purcell School is based within three boarding houses:

- Avison - Years 7-9 - for boys and girls
- Sunley - Years 9-13 - for girls only
- NBH - Years 10-13 - for boys and girls.

Rooms are generally shared up to and including Year 12. Single rooms are available in Sunley and NBH.

Careful consideration will be given to the allocation of rooms for a trans student during their time at the school. This consideration recognises the obligation to meet their individual needs, to the extent it is appropriate to do so, taking into consideration what is reasonably practicable. This will be done on a case-by-case basis. It also recognises that there may be issues of confidentiality, privacy, cultural sensitivity, or personal opinions about gender and sexuality amongst the wider boarding and school community which need to be duly taken into account. At all times, respect and kindness should underpin the responses and behaviour of all those concerned. Discussion with relevant parties and communication (to the extent appropriate), will be at the centre of the school's response with the needs of all the school's students at the heart of these. It is possible that a student would prefer to have a separate room, and we will endeavour to accommodate this as far practically possible, taking into account the restraints of the school's accommodation provision.

### **Toilets and changing facilities and off-site trips**

We recognise that a student may have different wishes and needs in relation to which school bathroom and/or changing facilities they wish to use. We recognise that they may feel uncomfortable when using certain spaces, while equally still wanting to be seen and treated as a member of their identified gender.

Toilets at The Purcell School are designated Male and Female (for Students), Staff/Visitors. Lavatory cubicles with shared washbasins are the norm.

Each case will be treated on an individual basis by carrying out tailored assessments, taking into account the wishes, dignity and welfare of the student as well as other students within the school community, to the extent they may be impacted.

There are no designated changing facilities at The Purcell School. Instead, boarding houses enable students to change in their own rooms. Day students are offered 'green room' facilities as and when necessary, and consideration will be given on an individual basis to the needs and wishes of students.

Trans pupils are entitled to equal access to off-site events, visits and trips. For such occasions the Director of Music will give consideration to the needs of trans students and advise the trip leader as appropriate and in confidence. Wherever possible, the individual student will be part of the conversation about what needs and adjustments are appropriate, and from the earliest planning stage. The Director of Music (and the trip leader) will need to take into account all relevant factors when making arrangements for the trip, including the wishes, welfare, age and development of the

trans student and any other students who may be impacted by the proposed arrangements, the particular circumstances of the trip and facilities available. It is possible that a trans student would prefer to have separate facilities during a trip or visit, and the school will endeavour to accommodate this as far as practically possible.

### **Physical Education and Sport**

We consider that PE develops competence and confidence and we will endeavour to ensure that trans students have the same access to sport and physical education while at school as everyone else. There may be situations (albeit not often) where this is not appropriate for a trans student to participate in certain activities (most likely when the trans student is post-puberty) on the basis of:

- safety (of the student and others); and
- fair competition.

The Purcell School does not consider that there will be many, if any, issues with trans students participating fully in its PE programme. If any issues are identified, we will try to manage these within the lessons rather than preventing trans students from participating wherever possible, and will consult any relevant guidance (for example from a sport governing body) where applicable.

### **PSHE and RSE education**

Our RSE and health education will ensure the needs of all students are appropriately met and that all students understand the importance of equality, respect and the legal rights and responsibilities regarding equality (with particular reference to the protected characteristics as defined in the Equality Act 2010, including sex and gender reassignment).

We will ensure teaching is sensitive and age appropriate in approach and content. Any teaching on LGBT (Lesbian, Gay, Bisexual & Trans) issues will be fully integrated into programmes of study and will be delivered at a timely point as part of students' curriculum.

[See our Relationship & Sex Education Policy for more details].

## Key Terms

**Cisgender/Cis** – someone whose gender identity is the same as the sex they were assigned at birth. Non-trans is an alternative term.

**Gender** – often expressed in terms of masculinity and femininity, gender is often assumed from the sex assigned at birth but individuals may identify differently (including as non-binary or gender fluid).

**Gender expression** – how a person chooses to outwardly express their gender, within the context of social expectations of gender. A person who does not conform to societal expectations of gender may not, however, identify as trans.

**Gender identity** – a person’s innate sense of their own gender, whether male, female or something else (see non-binary), which may or may not correspond to the sex assigned to them at birth.

**Gender reassignment** – see definition above in the policy under ‘Legislation and Guidance’.

**Intersex** – a term used to describe a person who may have the biological attributes of both sexes or whose biological attributes do not fit with societal assumptions about what constitutes male or female. Intersex people may identify as male, female or non-binary.

**Non-binary** – an umbrella term for people whose gender identity does not sit comfortably with ‘man’ or ‘woman’.

**Sex** – assigned to a person at birth on the basis of primary sex characteristics and reproductive functions. Legal sex can be changed subject to the issue of a Gender Recognition Certificate.

**Transgender man** – someone who is assigned female at birth but identifies and lives as a man. Abbreviated to trans man or FTM.

**Transgender woman** – someone who is assigned male at birth but identifies and lives as a woman. Abbreviated to trans woman or MTF.

**Transitioning** – the steps a trans person may take to live in the gender in which they identify. For some, this involves medical intervention but not all trans people want or are able to have this. Transitioning may also involve things like telling friends and family, dressing differently and changing official documents.

**Transphobia** – the fear, dislike of or prejudice against someone based on the fact they are trans.

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