



## Health & Safety Update – December 2019

### **Transgender Students:**

Since the beginning of term, the afPE Health and Safety team have been asked an increased number of questions about Transgender and the following has been written to seek clarification in this matter.

### **Terminology:**

Transgender is a term that includes many ways that people's gender identity or gender expression can differ from the sex they were assigned at birth. The need for greater knowledge in schools and colleges is essential as it is important staff are able to adequately support students.

Trans includes non-binary people who do not feel they are exclusively male or female. They may embody elements of both.

Being transgender does not imply any specific sexual orientation. A trans person can be gay, straight, bisexual, lesbian or any other sexual orientation.

Transition describes the steps a trans person makes to live in the gender with which they identify. This can be a long or short process which may or may not involve hormone therapy and surgeries. Each person's transition is unique.

Someone's transition may involve purely social aspects, such as telling friends, family and colleagues; dressing differently; and changing names and pronouns. There is no 'right' or 'wrong' way to transition.

### **Inclusion in PESSPA:**

In the same way as schools have policies and create environments for all young people to succeed, creating a trans-inclusive school is no different. Trans students are individuals who have needs which should be met rather than a specific group who need dealing with differently.

The new afPE Safe Practice in Physical Education, School Sport and Physical Activity (PESSPA) 2020 publication (not yet published) states that '*we should ensure dignity, decency and respect are consistently evident*' and this principle should apply to every context when working with students. This includes talking with individual students about how they are feeling.

Assumptions should not be made that a school does not have any trans students. It could be that students may not have the language or confidence to explain their feelings or identity or that there is a lack of knowledge of trans issues in the PE department/school.

Gender reassignment, sexual orientation and sex are all protected characteristics under the Equality Act 2010. This means discrimination, harassment or victimisation based on any one of characteristics is unlawful. Schools will therefore need to take steps to ensure their policies, procedures and practices and the activities and services they offer do not operate in a manner that treats students less favourably than other students because of the transgender status.

Staff must be aware and work through their school and/or Authority policy and guidance, particularly the school equalities policy and safeguarding policy when providing support with students' gender identity issues. Knowing and applying the employer's policies and procedures is contained in the Health and Safety at Work Act (H&SaW Act).

If staff are unsure in applying school policy and addressing such issues, they should make a direct approach to the school leadership or designated person to take the lead. It is essential that staff are confident and are aware of the importance of knowing and following established school policies.

#### **FAQ's:**

#### ***How do I manage sleeping arrangements on my sports tour when I have a Transgender young person in the group?***

Schools/colleges must not discriminate against a 'trans' young person because of their transgender status. Every school/authority should have an equalities policy, which includes setting out how off-site visits will be achieved so that all young people can participate equally. Parents can be offered copies of the equalities policy and an opportunity to speak individually with the Visit Leader or a member of Senior Management if necessary. Where a sports event involves transgender participants, you should consider any individual needs and any reasonable adjustments that may be required.

Don't make assumption's, speak with the transgender person and, their parent/s to find acceptable solutions. Each visit and young person should be considered on an individual basis.

Overnight stays may involve the most significant issues around accommodation and showers/toilet facilities. The people, context and organisation variables will all influence the event, as will the age, sexual maturity and gender identity of the individual and where they may be in any transition process.

It is important that you do not make uninformed decisions about someone's gender when making accommodation, changing, toilet and showering arrangements. A solution should be agreed with the individual young person prior to departure.

Practical arrangements may include:

- Access to neutral gender toilets
- Showers of the identified gender used by agreement at alternative times.
- A separate bedroom (although this may introduce other safeguarding/safety issues, and will need to be fully considered)
- Shared bedroom with other transgender young people or with friends where there is trust and understanding.
- Sensitivity around organising changing areas.

If parents of other young people taking part in the visit express concern, you should explain that the establishment is following the school and/or Authority policy and guidance which are both sensitive to individuals and also to the welfare and safety of the group. Parents can be offered a copy of the equalities policy and the opportunity to speak individually with the teacher leading the sports tour or a senior teacher. You should however also be aware of the need for confidentiality.

In conclusion, decisions should be made on a case-by-case basis, taking account of the areas highlighted above, and any other individual factors into consideration. Schools should always work from a position of inclusion.

#### ***If a young person asks for support with gender identity issues, how shall I respond?***

Every young trans person is different, there is no script but the following questions may be helpful. It is important that the student's gender identity is respected so listen to what they say and not lead

the conversation. If they permit, ask their family to the meeting as well and ask any or all of the following;

“How can we best help you’?”

“Have you spoken to anyone else about your feelings or gender identity?”

“How do you wish to express your gender identity?”

“Which name and which pronouns do you wish to be known by/called at school?”

Try and allow the student to express how they identify in a way they find comfortable and keep an open mind, taking care to find out what their needs are and how they want to proceed.

If they are looking to find medical help with their transition, then their GP is the first port of call. The GP should at least be able to refer the young person to Child and Adolescent Mental Health Services (CAMHS) so the young person or their family can have their questions answered.

Writing an action plan may be the next step if the student is intending to transition in school/college.

***We have a student transitioning from boy to girl and we allowed them to compete in the girls race on sports day. This young person duly won and broke the school record. The parents of the runner-up complained and it has caused an issue in the school.***

Parental complaints and concerns should be dealt with in accordance with the schools adopted complaints procedures. It may be possible to resolve such issues informally but where it is not possible complainants should be encouraged to submit their complaint formally to the Headteacher/Chair of Governors as appropriate.

The exemption within Section 195 of the Equalities Act 2010 makes it lawful to restrict participation of transsexual people in competitions where physical strength, stamina or physique are major factors in determining success or failure, if this is necessary to uphold fair competition, but not otherwise

If the physical strength, stamina or physique of the average pupil of one sex would put him or her at an advantage compared to the average pupil of the other sex as a competitor in a sport, game or other competitive activity, it is not unlawful for those arranging the event to restrict participation in the activity to pupils of one sex. Sports which come under this heading are referred to in the Act as a ‘Gendered Activity.

Our recommendation for any member of staff who is likely to be involved in the above situation is to seek Legal Advice from whoever provides this for your school and/or Authority.

**afPE Health & Safety Team**