



GENDER IDENTITY POLICY

This policy will be reviewed annually or in response to changes in legislation		
Created	May 2022	Heads, Clapham EDI Committee
Last Review		
Approved	September 2022	Principals and Heads
Next Review	September 2023	EDI Leads, Compliance Manager

Definitions

For the purposes of this document and for clarity, the following definitions will be used:

Sex referring to the biological aspects of an individual as determined by their anatomy, which is produced by their chromosomes, hormones and their interactions

Gender the state of being male or female in relation to the social and cultural roles that are considered appropriate for men and women.

Gender Identity a person's innate sense of their own gender, whether male, female or something else, which may or may not correspond to the sex observed at birth

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

Gender Non-Conforming exhibiting behavioral, cultural, or psychological traits that do not correspond with the traits typically associated with one's sex. Having a gender expression that does not conform to traditional societal definitions of gender expression.

Transgender or **Trans** of, relating to, or being a person whose gender identity differs from the sex the person had or was identified as having at birth.

1. Introduction

- 1.1. Thomas's aims to cultivate a community that is inclusive, forward-thinking and outward-looking, with our values at the heart of all we do. Equality underpins the value system of Thomas's and we expect our pupils to be supportive and kind to others. We encourage all members of our community to respect and celebrate difference and respect the right of others to hold differing beliefs or views. We look to our pupils and staff to challenge discrimination in all its forms and to foster healthy, positive relationships grounded in mutual respect.

- 1.2. Gender identity may impact some members of our school community and the way we work together as a school. It can be a sensitive topic and one about which there are a range of differing views.
- 1.3. Thomas's recognises that pupils and staff 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 their natal sex (the biological 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.
- 1.4. 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 as Appendix 1 (while recognising that this is a developing area). For simplicity, we will use the term trans pupil to refer to a student that's describing a person's gender identity that does not necessarily match their assigned sex at birth.
- 1.5. The purpose of this Policy is to provide pupils, parents, and staff (including volunteers and governors) with information about Thomas's' approach to dealing with matters relating to gender identity and trans pupils, to set out briefly our legal obligations in this regard, and to provide guidance in relation to some of the practical areas where issues may arise.
- 1.6. This Policy applies to all year groups at Thomas's Schools, including the EYFS.
- 1.7. This Policy should be read in conjunction with Thomas's other policies, in particular the Admissions Policy; Anti-Bullying Policy; Code of Conduct; Educational Visits and Offsite Activities Policy; Equity, Diversity & Inclusion Policy; Personal, Social, Health and Economic Education Policy; Relationship & Sex Education Policy; Safeguarding & Child Protection Policy; Social, Moral, Spiritual & Cultural Policy; and Wellbeing Policy.

2. Principles

- 2.1. This Policy is underpinned by our values and in particular our commitment to creating an equal, inclusive and kind community in which everyone feels welcome, safe and comfortable to be who they are and flourish.
- 2.2. We recognise that the question of gender identity is a complex and very personal one, and – to the extent it may impact on trans pupils and other non-binary/non-conforming gender engagement with school life – will require a tailored response developed in consultation with the pupil in question and, where appropriate, parents/carers. We will always seek to encourage an open dialogue with parents/carers of trans pupils.
- 2.3. The safety and wellbeing of the pupils in our care is paramount and their welfare will always be our principal consideration.
- 2.4. We are committed to creating an inclusive environment and therefore challenge stereotyping including on the basis of gender and have a zero tolerance policy for bullying (whether related to gender, sex or

otherwise). For more information see our Equity, Diversity & Inclusion Policy and our Anti-Bullying Policy.

3. Legislation and guidance

This Policy has been prepared with reference to relevant legislation and statutory and non-statutory guidance, in particular:

- 3.1. the Equality Act 2010;
- 3.2. Keeping Children Safe in Education (September 2022);
- 3.3. Guidance from the Equality & Human Rights Commission;
- 3.4. the Cornwall Schools Transgender Guidance^[1]; and;
- 3.5. Political impartiality in schools (statutory guidance dated February 2022).

4. The law

- 4.1. The Equality Act 2010 (the Act) is the key piece of legislation in this area. Under the 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 pupils on the basis of a protected characteristic. There are nine protected characteristics under the Act, including gender reassignment and sex.
- 4.2. Under the Act, a pupil's legal sex (when they are under 18) is likely to be considered 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).
- 4.3. Under the Act, a person will have the protected characteristic of gender reassignment if that person is "*proposing to undergo, is undergoing or has undergone a process (or part of a process) for the purpose of reassigning the person's sex by changing physiological or other attributes of sex.*"
- 4.4. 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 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.*"
- 4.5. This means that any pupil 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.

5. *Our approach*

- 5.1. It can never be Thomas'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 an environment which is respectful, kind, safe and welcoming for any pupil 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.
- 5.2. Pupils 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.
- 5.3. As noted above, the welfare of our pupils will be paramount and will always guide our response.
- 5.4. Appropriate support will be made available to any trans pupil or non-conforming pupil with regards to gender in consultation with them via our pastoral teams, school and cross-school EDI committees and through external experts, as appropriate, and in accordance with our Wellbeing Policy and Safeguarding & Child Protection Policy.

6. *Confidentiality and communication with parents/carers*

- 6.1. Ideally, we would wish to work in close partnership with parents and carers of trans pupils and we would encourage (especially in cases where the pupil is under the age of 16) an open dialogue between pupils and parents/carers. However, there may be circumstances in which the trans pupil may have different views as to who they discuss their gender identity with, what information is shared by the School, when and with whom (and related concerns). In these situations, the School will have regard to the maturity and capacity of the trans pupil and whether there are any safeguarding reasons that justify a modified approach. Information about a pupil's gender identity is sensitive personal data which should be treated as such, in accordance with the school's Data Protection Policy.
- 6.2. In all cases the wishes of the pupil should be sought and taken into account and proper regard given to the pupil's maturity and capacity and expert advice sought, as appropriate. As there may be situations where information will need to be shared with parents/carers or others, staff should ensure at the outset that no promises of absolute confidentiality are made to pupils. We will liaise with external agencies as appropriate, such as social care and CYPMHS so they can provide the best support they can for both the pupil and the family.
- 6.3. Confidential information about trans pupils must not be shared with other parents and any queries or questions from other parents should be referred to the Head.

7. *Terminology, name changes or different pronouns*

- 7.1. We recognise that different individuals and organisations sometimes prefer different terms to identify themselves and the nature of being

trans and we will discuss with the pupil and (as appropriate) their parents/carers the appropriate terms to use. This can also include people that do not identify as their given sex at birth or name.

- 7.2. Pupils who have expressed an intention to identify with a different gender from their assigned sex at birth may request – as part of this process - to be known by another name in school and/or be referred to using different pronouns. We will seek to accommodate such requests as far as reasonably possible and will consult with the pupil to agree how best to communicate this change to staff and other pupils.
- 7.3. Intentionally using the incorrect name or pronoun of a pupil can constitute discrimination and/or transphobic bullying and will be addressed appropriately in line with school policies. We recognise that there may be times when staff or pupils accidentally use the incorrect name or pronoun. In such cases we expect individuals to apologise and take steps to ensure it is not repeated.
- 7.4. If a pupil wishes to have changes to names and pronouns recognised formally on the school's systems this will need to be done in consultation with the parents/carers, as letters home and other communications with parents will reflect the system change.
- 7.5. There are some restrictions in relation to the name under which a pupil can be entered into external exams, and the options around this should be discussed with the pupil in question and where possible with the relevant exam board. We will endeavour to agree a workable approach with the pupil and their parents/carers, as appropriate.

8. *Transphobia and bullying*

- 8.1. While there is no consensus on the exact figures, it is well-known that trans children are more likely to suffer from poor mental health than their non-trans peers either as symptomatic of gender dysphoria/incongruence or potentially because of transphobic abuse.
- 8.2. Any behaviour which seeks to bully or belittle a student due to their gender identity will not be tolerated and will be addressed in accordance with our Anti-Bullying Policy.

9. *School bathrooms and changing facilities*

- 9.1. We recognise that a trans pupil may have different wishes and needs in relation to which school bathroom and/or changing facilities they wish to use. We recognise that trans pupils may feel uncomfortable when using certain spaces, while equally still wanting to be seen and treated as a member of their identified gender.
- 9.2. We will discuss with the pupil in question their preferences for bathrooms and changing facilities and we will endeavour to accommodate those wishes to the extent reasonably possible and act proportionately. There may be cases where the use of neutral / private or unisex spaces will be the most appropriate solution. Each case will be treated on an individual basis by carrying out tailored

assessments, taking into account the wishes, dignity and welfare of the trans pupil as well as other pupils within the school community, to the extent they may be impacted, the School's legitimate aims, and the facilities available.

- 9.3. There is no expectation that other parents will be informed of or consulted on such decisions as they relate to confidential and sensitive information about another pupil.

10. *School trips, exchanges and overnight stays*

- 10.1. We believe that every young person should experience the world beyond the classroom as an essential part of learning and personal development, whatever their age, ability or circumstances (Manifesto for Learning Outside the Classroom, 2006). In accordance with our Equity, Diversity and Inclusion Policy every effort is made to include all children in all visits and off-site activities.
- 10.2. Trans pupils are entitled to equal access and we will ensure that we consider any additional needs of trans pupils in advance of the trip and discuss what specific arrangements, if any, will be put in place. This will include a consideration of sleeping arrangements if an overnight stay is involved. As with bathroom and changing facilities we recognise that trans pupils may feel uncomfortable when using certain spaces, while equally still wanting to be seen and treated as a member of their identified gender.
- 10.3. Such matters will be considered on a case-by-case basis. An individual assessment will be undertaken and decisions made accordingly, based on a consideration of relevant factors. Relevant factors will likely include the wishes, welfare, age and development of the trans pupil and any other pupils who may be impacted by the proposed arrangements, the particular circumstances of the trip and facilities available. It is possible that a trans pupil would prefer to have a separate room, and we will endeavour to accommodate this as far as possible.
- 10.4. Where necessary, parents and carers of other pupils will be informed about arrangements in advance and should any particular concerns or queries arise, these can be addressed accordingly and on a case-by-case basis.

11. *Transgender in the curriculum*

- 11.1. Our Relationship and Sex Education and health education will ensure the needs of all pupils are appropriately met and that all pupils understand the importance of equality, respect and (for older pupils) 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).
- 11.2. 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 pupils' curriculum. This should

be overseen by the cross-school EDI committee and PSHE leads at school.

- 11.3. See our Personal, Social, Health and Economic Education Policy and Relationship & Sex Education Policy for more details.
- 11.4. We will have regard to the statutory guidance 'Political impartiality in schools' (February 2022) as appropriate, when devising and delivering the curriculum as it relates to political issues connected with transgender and gender identity.

12. *Sport and physical education*

- 12.1. We will endeavour to ensure that trans pupils have equal access to sport and physical education while at school. However, there may be situations where this is not appropriate (most likely where the trans pupil is post-puberty) on the basis of
 - 12.1.1.1. safety (of the trans pupil and others); and
 - 12.1.1.2. fair competition.
- 12.2. We will assess each case on an individual basis and consult any relevant sport specific guidance (for example from a sport governing body). We will also consult with the pupil and parents if necessary.

13. *Uniform*

- 13.1. Trans pupils have the right to dress in a manner that is consistent with their chosen gender providing it is compliant with the school's uniform policy.
- 13.2. If any trans pupil has any particular difficulty complying with the school's uniform policy, they should raise this with a member of the pastoral team, and the School will consider these concerns on a case by case basis.