

# Policy on Customer/Carer Gender Preference for Personal Care

When a Customer or Carer expresses a preference for the gender of their care worker

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# 1. Introduction

Warwickshire County Council (WCC) has a statutory duty to ensure that, where an individual's needs meet the national eligibility criteria, their care and support needs are addressed.

In addressing those needs, WCC may arrange personal care for eligible customers who have been assessed as requiring:

- (a) physical assistance given to a person in connection with—
  - eating or drinking (including the maintenance of established parenteral nutrition),
  - toileting (including in relation to the process of menstruation),
  - washing or bathing,
  - dressing,
  - oral care, or
  - the skin, hair and nails (with the exception of nail care provided by a chiropodist or podiatrist); or
- (b) the prompting, together with supervision, of a person, in relation to the performance of any of the activities listed in paragraph (a), where that person is unable to make a decision for themselves in relation to performing such an activity without such prompting and supervision.

([Health and Social Care Act 2008 \(Regulated Activities\) Regulations 2014](#))

WCC expects that all providers of personal care will adhere to the Care Quality Commission's regulations, which state that providers must make suitable arrangements to ensure:

- The dignity, privacy and independence of customers
- That customers are enabled to make, or participate in making, decisions relating to their care
- That care and treatment is provided to customers with due regard to their age, sex, religious persuasion, sexual orientation, racial origin, cultural and linguistic background and any disability they may have

([Summary of regulations, outcomes and judgement framework. March 2010](#))

The provision of personal care should be provided in a way that respects a customer's right to private and family life under article 8 of the Human Rights Act. However, this is not absolute – it also needs to be balanced with WCC's responsibilities for the provision of care to the community at large.

To help meet these legal requirements, WCC has developed a Policy on Customer/Carer Gender Preference for Personal Care, which sets out how managers and practitioners in Adult Social Care and Support should respond if a customer expresses a preference for the gender of their care worker.

The policy applies to all adult services commissioned by WCC's People Group that support customers with personal care. This includes residential and nursing homes, respite care, day services, home care, community care and supported living. For this reason, in addition to managers and practitioners in Adult Social Care and Support, Commissioners of adult social care services, and Care Providers which provide services to customers in Warwickshire should be aware of this policy.

The policy does not infringe upon any of the legal protections provided for customers and staff by the Equalities Act 2010.

## **2. Policy Statement**

If a customer, or their representative, has expressed a preference to receive personal care from a worker of a particular gender then, as far as reasonably possible, this preference will be honoured.

In support of this, the Council will endeavour to:

- Assess the customer's stated gender preference for personal care in terms of need and risk
- Include any reasonable requests within the customer's Social Care Support Plan
- Commission a care provider that is best-placed to deliver all the outcomes of the customer's Support Plan

The following commitments will also be adhered to:

- The customer will not be required to provide a reason or explanation for their gender preference for personal care; but if they choose to do so, this will be taken into account
- No assumption will be made about a customer's sexuality based on their preference for a particular gender of their care worker
- There will be no requirement for a customer, carer or care worker to disclose their own sexuality
- If a request is made by the customer's representative, rather than the customer, full reasons for the request should be given so the best interests of the customer can be properly assessed, if they lack capacity

It should be noted that:

- Care providers may not always be able to meet a customer's preference due to staffing issues
- It may not always be safe or appropriate to meet a customer's preference (e.g., if a customer requests a care worker of different gender for a particular activity, like dressing)
- In urgent situations, it may be necessary for care providers to deliver care against the preference of the customer in order to safeguard their safety and wellbeing
- Customers can, if they wish, opt to receive Direct Payments for their social care, which would allow them to choose their own provider and have greater control over their preference for the gender of their care worker.

### 3. Roles and Responsibilities

Warwickshire County Council (WCC) commissions a number of third-party providers to deliver personal care services on its behalf.

WCC expects that commissioned providers will adhere to the requirements of the customer's Social Care Support Plan, as far as is reasonably practicable.

Providers are asked to give consideration to any necessary staffing requirements prior to bidding for or accepting a contract from WCC.

In cases where a gender preference is already known, the Social Care Practitioner will indicate this to providers as early as possible so they can assess their workforce availability and their ability to fulfil demand.

In cases where a gender preference is not known, but is likely to be expressed by the customer, the Social Care Practitioner will advise providers of the likely demands accordingly.

If appropriate to the individual case, the Social Care Practitioner will advise the customer that Direct Payments would allow them to choose their own provider and have greater control over their gender preference for personal care.

#### **Warwickshire County Council will:**

- Recognise the dignity of its social care customers and enable them to participate in decisions relating to their care
- Commission care from provider(s) that are best-placed to fulfil the requirements of a customer's Social Care Support Plan

#### **Social Care Practitioners will:**

- Assess a customer's gender preference for personal care and include any reasonable requirements within their Support Plan
- List the specific personal care tasks to which the gender preference applies
- Assess the risk associated with each task should gender preference for personal care not be met
- Advise on the Direct Payments option, if appropriate to the case

#### **Care Providers will:**

- Consider all requirements within a customer's Social Care Support Plan prior to bidding for the contract
- Demonstrate how they will meet a customer's gender preference for personal care
- Ensure that the customer's preferences are appropriately reflected in the support plan they develop with the customer

## **4. Monitoring and Review**

In order to assess the effectiveness and relevance of this policy, WCC will seek to monitor the number of gender preference requests that are expressed by customers during care assessments, support planning and case reviews.

The policy will be reviewed once every 12 months. Any necessary amendments to the policy will be approved by the Social Care and Support Management Team prior to implementation.

## **5. Further Information**

Practice Guidance is available to assist staff in managing situations where customers express a preference for the gender of their care worker. This can be accessed on the WCC Intranet.

There are many situations and scenarios where gender preference for personal care can occur, and many possible reasons as to why the customer is making the request. It is important to treat each situation in its own context and give each request due consideration with regard to risk (both for the customer and the care worker).

The Practice Guidance will help you in this process. You can also speak to your line manager if you are uncertain how to proceed.