

Gender Reassignment Staff Support Policy

Author with contact details	Thomasina Afful / Tracey Lowry - Equality and Diversity, Workforce		
Lead Executive/ Senior Manager	Chief People Officer		
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Equality, Diversity And Human Right Statement	The Trust is committed to an environment that promotes equality and embraces diversity in its performance both as a service provider and employer. It will adhere to legal and performance requirements and will mainstream Equality, Diversity and Human Rights principles through its policies, procedures, service development and engagement processes. This procedure should be implemented with due regard to this commitment.		
To be read In conjunction with / Associated Documents:	Agenda for Change Terms & Conditions of Employment Equality & Diversity Policy	Information Classification Label	<input type="checkbox"/> Unclassified
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Version number	Page	Changes made with rationale and impact on practice	Date

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1. Purpose

This policy seeks to ensure that the provision for transgender people is responsive to individual need; is prejudice free and challenges the discrimination individuals may experience.

This policy aims to provide clear guidance and advice in relation to gender reassignment. It intends to identify the following:

- Whom it applies to, where and when it should be applied.
- The underlying beliefs upon which the policy is based.
- The standards to be achieved
- How the policy standards will be met through working practices.

This policy seeks to ensure that the provision for transgender people is responsive to individual need; is prejudice free and challenges the discrimination individuals may experience.

This policy applies to all applicants for employment and staff employed and should be considered in light of current legislation. This document will provide a framework for managers and clinical staff to support staff and patients who identify with a gender other than that assigned at birth.

All staff including contracted and agency staff are required to treat colleagues, patients and visitors with dignity and respect to eliminate unlawful discrimination and to promote equality, respect human rights and value diversity.

This policy applies to all aspects of the employment relationship.

2. Policy Content

2.1 Terminology

There is a broad range of varied and dynamic terminology when it comes to describing trans individuals. The terms described below may vary in their usage and could become outdated. The list below is not exhaustive and has been adapted from Stonewalls and Gender Identity Research and Education Society (GIRES) glossary of terms.

Further information can be found here:

<http://www.stonewall.org.uk/help-advice/glossary-terms>

<https://www.gires.org.uk/resources/terminology/>

Trans is an umbrella term to describe people whose gender is not the same as, or does not sit comfortably with, the sex they were assigned at birth. Trans people may describe themselves using one or more of a wide variety of terms, including (but not limited to) transgender, non-binary and gender queer. For the sake of clarity the word 'Trans' will be used in this document to include all people at whatever stage they are in their transition.

Gender Identity describes the psychological identification of oneself, typically, as a boy/man or as a girl/woman, known as the 'binary' model. Some people experience a gender identity that is somewhat, or completely, inconsistent with their sex appearance; or they may regard themselves as gender neutral, or non-gender, or as embracing aspects of both man and woman, and possibly, falling on a spectrum between the two. People have the right to self-identify, and many people reject the whole idea of binary tick-boxes, and describe themselves in non-binary, more wide ranging, open terms such as pan-gender, poly-gender, third gender, gender queer, neutrois and so on. Pronouns he/she, his/hers, may be replaced with more neutral pronouns such as: they, per, zie, or fey; and the title Mx may be preferred to Mr, Mrs, Miss or Ms.

Gender Reassignment is another way of describing a person's transition. For some individuals, undergoing gender reassignment involves medical intervention, but this is not required for a person to identify as Trans. It can also mean changing names, pronouns, dressing differently and living in your self-identified gender. Gender reassignment is a characteristic that is protected in the Equality Act 2010.

Gender Recognition Certificate (GRC) enables Trans people to be legally recognised in their self-identified gender and to be issued with a new birth certificate. Not all Trans people will or want to apply for a GRC and you have to be over 18. An employer or service provider does not need to see a GRC in order to recognise an employee or service user's gender.

Transgender man is a term used to describe someone who is assigned female at birth but identifies as a man. This may be shortened to Trans man, or FTM, an abbreviation for female to male.

Transgender woman is a term used to describe someone who is assigned male at birth but identifies as a woman. This may be shortened to Trans woman, or MTF, an abbreviation for male to female.

Transsexual/Transvestite the terms 'transsexual' and 'transvestite' are now considered old fashioned and are only likely to be seen in legal and medical documents. They are now gradually being replaced with more acceptable terminology such as 'transgender' and 'trans'. These terms are often seen as offensive and stigmatising and are generally best avoided.

Cross Dresser is someone who enjoys wearing the clothing of the 'opposite' gender for periods of time. People who cross dress do not generally seek physical reassignment; they can be male or female.

2.2 Background

The Trust is committed to best practice and to the adoption of a human rights based approach. This means treating everyone, patients, carers and staff with Fairness, Respect, Equality, Dignity and Autonomy. As an organisation, we will ensure that trans people, whether patients, carers, or staff, are accepted and treated at all times as the gender in which they permanently present.

Gender reassignment is the personal, social, and medical process by which a person's gender identity is changed. An individual may be and may remain, at any stage of this transitioning from their birth gender to the opposite gender but the sense of discomfort with the gender into which they are born (gender-dysphonia) is the same. This can occur from both a male and female point of view. To fully transition a person has to live for a period of two years as the gender that they are transitioning to (this can be before they have any hormone or surgical treatment). After this period of time, they can be legally recognised as that gender and issued with a gender recognition certificate in their new gender (this is the equivalent of a birth certificate)

Research undertaken in the areas of employment, health provision, social exclusion and hate crime indicates that Trans people experience disproportionate levels of discrimination, harassment, and violence relative to the general population.

2.3 Recruitment and selection

There is no barrier to a person who identifies as Trans from applying for employment within the Trust. All involved in the recruitment and selection process are aware of their responsibilities to select fairly and without prejudice.

Any potential candidate who wishes to enquire about the Trusts policy on recruiting transgender staff should be referred to this policy as well as to the Equality, Diversity and Human Rights in Employment Policy.

2.4 Confidentiality within the recruitment and selection process

The recruitment, selection, management and support of staff that identify as Trans must be considered in line with the Human Rights principles of fairness, respect equality, dignity and autonomy (Freda).

Applicants can choose not to disclose their transgender status during the recruitment and selection process including at interview, or as any condition of employment.

If applicants choose to disclose their status, they should not be discriminated against because of this in recruitment or employment. Staff are also protected from discrimination for non-disclosure or subsequent disclosure during employment.

2.5 Disclosure and Barring Service Checks (DBS)

Staff who work in the NHS are required to have a DBS check. Part of this process involves a strict requirement for applicants to state all previous names and aliases. DBS checks should not be a problem for Trans people. The DBS has a confidential

checking process for Transgender people where applicants do not wish to reveal details of their previous identity to the person who asked them to complete an application form for a DBS disclosure. The applicant may wish to contact the sensitive applications team, 0151 676 1452 to discuss this matter in confidence.

Alternatively, they may email sensitive@dbs.gov.uk.

- Trans applicants for a DBS disclosure should contact DBS on the above number to clarify anything they are not sure about and ensure that the DBS know they will be using the confidential checking process
- The trans applicant should complete the form presented by their employer in the normal way, except that they need not complete details (or supply forms of evidence) that would expose their gender history to their employer
- If they wish to leave out details that could “out” them then they should photocopy the form, ensuring they have a clear record of the application serial number
- The applicant should then immediately contact the DBS in Liverpool on the number above and notify them of the application number.
- The special security section of the DBS in Liverpool then has the means to intercept the application that was forwarded by the employer. They will ask the applicant to supply the information needed to replace that which was omitted
- This is then married up so that a rigorous records check can be carried out in the same way as for any other applicant.
- Disclosures sent to the employee and their employer will not reveal the applicant’s former identity unless they have an offence or caution that has been recorded in that name in Police records. In this case there is no way of avoiding the disclosure of that former identity to the employer
- If the offence itself is not serious enough to preclude employment, reassurances should be given to the applicant /member of staff in this event.

2.6 Accommodating Gender Transition in the Workplace

The Trust is committed to supporting all its employees regarding personal circumstances that may impact on work.

Once an employee has decided they wish to undergo gender reassignment it is essential that a support network is set up as soon as possible to accommodate this. It is for the individual to decide whom to turn to for advice and support, be it their line manager or Business Human Resources (see below). Once this is agreed a member of Business Human Resources staff should be assigned to act as a contact for the individual concerned to answer any queries or action any requirements and act as an advisor. The appointed advisor will need to discuss with the individual how they wish to handle the transition.

The following issues should be considered and agreed by both parties:

- Whether the employee is to stay in their current post during and after the transition or would prefer to be redeployed. (If the employee also has a disability, then ‘reasonable adjustments’ would need to be taken into account or existing arrangements would need to be transferred to a new post in line with the Equality Act 2010).
- The expected timescale for medical procedures (if to be undertaken) and any time off required for treatment
- The expected point at which the change of name and personal details should occur. When this happens a new HR file should be created and all reference to previous gender should be removed from hard copy and electronic records

- Whether the employee wishes to inform the line manager, colleagues and other staff and clients, or would prefer the appointed advisor / a third party to inform them instead.
- Agreeing a point at which their gender specific dress will change
- Agreeing a point at which the individual will change use of single sex toilets / changing facilities in their new gender. This could be from the first day of transitioning
- Whether new arrangements will need to be made for any accommodation used for work purposes

Support may also include time away from work (see special leave policy) for outside support networks, counselling, or medical issues; dealing with the reactions of other employees; educating employees about the issues involved and confidentiality.

Tran's people have the right to call a halt to the transition process and choose to remain in a more gender ambiguous identity at any time if they wish.

2.7 Time off work

As per the Trust's absence policy, any absence from work for medical requirements would need to be covered by a medical certificate.

Any additional leave (e.g. additional non-medical appointments) may be classed as Special Leave – as referred to in the Trust's Special Leave Policy – and considered by managers on an individual basis. Managers should contact the Business Human Resources department if further advice is required on this.

2.8 Support Mechanisms

The list below shows just some of the options available to individuals who wish to seek support within the organisation during a gender transition period. Support encompasses identifying individual support needs, including additional diversity issues such as age, culture, disability, ethnicity, religion or sexual orientation

- Business Human Resources – an appointed advisor from within the Business Human Resources department will be identified at an early stage to offer support; put in place practical changes that need to be made to an individual's post or personal records; to support positive working relationships between the individual and wider team members if relevant. Any qualified Business Human Resources professional should have the necessary knowledge and awareness required to deal with such personal and sensitive issues.
- Occupational Health – a referral to occupational health, may be considered by the individual, their manager or the human resources advisor for additional support and advice concerning any counselling needs or advice regarding the medical process of the transition. Managers may also need advice regarding the needs of the individual and on how to support changes that may need to be made within the team or work environment.
- Equality and Diversity Manager /Lead – The Trust has a number of people who have specialist knowledge of issues in relation to Equality, Diversity and Human Rights that can be used as a resource.

2.9 The Legal Framework

In recent years the law has been extended in several ways to clarify the rights of people who are planning to undergo, who are undergoing or have undergone the gender reassignment process.

In brief, it is unlawful to discriminate against or harass trans people in employment or vocational training or in the provision of goods, facilities, and services.

2.10 Sharing Personal Information

Under the Equality Act 2010 it is illegal for staff to share information regarding someone's Trans status. The Equality Act states that: "It is an offence for a person who has acquired protected information in an official capacity to disclose the information to any other person" unless:

- There is specific agreement to do so by the Trans person.
- If it is necessary for professionals to know someone's Trans status, then it is recommended that the Trans person is asked to provide permission in writing.
- The Secretary of State may by order make provision prescribing circumstances in which the disclosure of protected information is not to constitute an offence under this section.

Further information can be found here:

<https://www.equalityhumanrights.com/en/advice-and-guidance/gender-reassignment-discrimination>

www.opsi.gov.uk

Anyone who, in their professional capacity, acquires knowledge of a Trans person's history and knows, that the person has a Gender Recognition Certificate, or new birth certificate and passes on that information to a third party without the consent of the person concerned can be prosecuted and fined up to £5000 and/or be jailed for up to six months. Trans people have no obligation to disclose whether they have a Gender Recognition Certificate and should never be asked for this

- Equality Act 2010 – Under this act it is unlawful for employers to discriminate because someone intends to undergo, is undergoing or has undergone, gender reassignment. This act extends to cover discrimination on grounds of gender reassignment in employment, vocational training and the provision of goods and services.
- Genuine Occupational Qualification (GOQ) – Following legal recognition of an individual, the entire body of employment law must be interpreted on the basis that Trans people are regarded for all purposes as a member of the acquired gender.

If the single sex GOQ applies to a post and the job holder changes gender, then it is reasonable for an employer to reconsider the continuation of the job holder within the post. The employer must show that they have treated the individual reasonably in all circumstances.

- Human Rights Act 1998 - The Human rights act details the principles of Fairness, Respect, Equality Dignity, and Autonomy (Freda) as fundamental

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3. Exceptions

No exceptions

4. Training

N/A

5. Monitoring of compliance

Minimum requirement to be monitored	Process for monitoring e.g. audit/ review of incidents/ performance management	Job title of individual(s) responsible for monitoring and developing action plan	Minimum frequency of monitoring	Name of committee responsible for review of results and action plan	Job title of individual/ committee responsible for monitoring implementation of action plan
Grievances	Audit	Equality and Diversity Lead/HR Business Partner(s)	Annual	WELG/ Workforce Committee	HR Business Partner(s)

6. Relevant regulations, standards and references

<https://www.stonewall.org.uk/>

<http://m.acas.org.uk/media/pdf/6/f/Supporting-trans-employees-in-the-workplace.pdf>

7. Equality, diversity and human right statement

The Trust is committed to an environment that promotes equality and embraces diversity in its performance both as a service provider and employer. It will adhere to legal and performance requirements and will mainstream Equality, Diversity and Human Rights principles through its policies, procedures, service development and engagement processes. This SOP should be implemented with due regard to this commitment.

8. Legal requirements

This document meets legal and statutory requirements of the EU General Data Protection Regulation (EU 2016/679) and all subsequent and prevailing legislation. It is consistent with the requirements of the NHS Executive set out in Information Gender Reassignment Staff Support Policy, Version 1, June 2023

Security Management: NHS Code of Practice (2007)
and builds upon the general requirements published by NHS Digital/Connecting for
Health (CfH).

Appendix 1: Equality impact assessment

Title	
Strategy/Policy/Standard Operating Procedure	
Service change (Inc. organisational change/QEP/ Business case/project)	
Completed by	
Date Completed	

Description *(provide a short overview of the principle aims/objectives of what is being proposed/changed/introduced and the impact of this to the organisation)*

Who will be affected *(Staff, patients, visitors, wider community including numbers?)*

The Equality Analysis template should be completed in the following circumstances:

- **Considering developing a new policy, strategy, function/service or project(Inc. organisational change/Business case/ QEP Scheme);**
- **Reviewing or changing an existing policy, strategy, function/service or project (Inc. organisational change/Business case/ QEP Scheme):**
 - If no or minor changes are made to any of the above and an EIA has already been completed then a further EIA is not required and the EIA review date should be set at the date for the next policy review;
 - If no or minor changes are made to any of the above and an EIA has NOT previously been completed then a new EIA is required;
 - Where significant changes have been made that do affect the implementation or process then a new EIA is required.

Please note the results of this Equality Analysis will be published on the Trust website in accordance with the Equality Act 2010 duties for public sector organisations.

Section 1 should be completed to analyse whether any aspect of your paper/policy has any impact (positive, negative or neutral) on groups from any of the protected characteristics listed below.

When considering any potential impact you should use available data to inform your analysis such as PALS/Complaints data, Patient or Staff satisfaction surveys, staff numbers and demographics, local consultations or direct engagement activity. You should also consult available published research to support your analysis.

Section 1 – Initial analysis

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Equality Group	Any potential impact? Positive, negative or neutral	Evidence <i>(For any positive or negative impact please provide a short commentary on how you have reached this conclusion)</i>
Age <i>(Consider any benefits or opportunities to advance equality as well as barriers across age ranges. This can include safeguarding consent, care of the elderly and child welfare)</i>	Neutral	
Disability <i>(Consider any benefits or opportunities to advance equality as well as impact on attitudinal, physical and social barriers)</i>	Neutral	
Gender Reassignment <i>(Consider any benefits or opportunities to advance equality as well as any impact on transgender or transsexual people. This can include issues relating to privacy of data)</i>	Neutral	
Marriage & Civil Partnership <i>(Consider any benefits or opportunities to advance equality as well as any barriers impacting on same sex couples)</i>	Neutral	
Pregnancy & Maternity <i>(Consider any benefits or opportunities to advance equality as well as impact on working arrangements, part time or flexible working)</i>	Neutral	
Race <i>(Consider any benefits or opportunities to advance equality as well as any barriers impacting on ethnic groups including language)</i>	Neutral	
Religion or belief <i>(Consider any benefits or opportunities to advance equality as well as any barriers effecting people of different religions, belief or no belief)</i>	Neutral	
Sex <i>(Consider any benefits or opportunities to advance equality as well as any barriers relating to men and women eg: same sex accommodation)</i>	Neutral	

Sexual Orientation <i>(Consider any benefits or opportunities to advance equality as well as barriers affecting heterosexual people as well as Lesbian, Gay or Bisexual)</i>	Neutral	
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If you have identified any **positive** or **neutral** impact then no further action is required, you should submit this document with your paper/policy in accordance with the governance structure.

You should also send a copy of this document to the equality impact assessment email address.

If you have identified any **negative** impact you should consider whether you can make any changes immediately to minimise any risk. This should be clearly documented on your paper cover sheet/Project Initiation Documents/Business case/policy document detailing what the negative impact is and what changes have been or can be made.

If you have identified any negative impact that has a high risk of adversely affecting any groups defined as having a protected characteristic then please continue to section 2.

Section 2 – Full analysis

If you have identified that there are potentially detrimental effects on certain protected groups, you need to consult with staff, representative bodies, local interest groups and customers that belong to these groups to analyse the effect of this impact and how it can be negated or minimised. There may also be published information available which will help with your analysis.

<u>Is what you are proposing subject to the requirements of the Code of Practice on Consultation?</u>	Y/N
Is what you are proposing subject to the requirements of the Trust’s Workforce Change Policy?	Y/N
Who and how have you engaged to gather evidence to complete your full analysis? (List)	
What are the main outcomes of your engagement activity?	
What is your overall analysis based on your engagement activity?	

Section 3 – Action Plan

You should detail any actions arising from your full analysis in the following table; all actions should be added to the Risk Register for monitoring.

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Action required	Lead name	Target date for completion	How will you measure outcomes

Following completion of the full analysis you should submit this document with your paper/policy in accordance with the governance structure.

You should also send a copy of this document to the equality impact assessment email address

Section 4 – Organisation Sign Off

Name and Designation	Signature	Date
Individual who reviewed the Analysis		
Chair of Board/Group approving/rejecting proposal		
Individual recording EA on central record		

Appendix 3: Roles and responsibilities

Role	Responsibility
Employees	<ul style="list-style-type: none"> • Have a responsibility to adhere to the equality and diversity policy and to ensure that they are up to date with equality and diversity training • Must ensure that they do not discriminate against a trans colleague, patient, carer or visitor • Should seek advice or guidance in relation to any concerns regarding gender reassignment in the workplace from the equality and diversity lead or the human resources department.
Line Manager	<ul style="list-style-type: none"> • Ensure application of this policy • Ensure all staff are aware and understand the policy • Promote a non-discriminatory environment • Ensure that staff are updated with any changes in this policy • Ensure all staff have completed equality and diversity training
Human Resources	<ul style="list-style-type: none"> • Provide support and advice to staff and managers in relation to gender reassignment concerns in the workplace • Promote the policy and provide general guidance. • Promote consistent policy application across the Trust in order to achieve a balance between organisational requirements and individual needs • Act as an assigned advisor for all queries, concerns and requirements for any employee who wishes to undergo gender reassignment
Director of Workforce	<ul style="list-style-type: none"> • Ensuring that this policy is fully implemented and that there is a continuing commitment to the training of managers and human resources staff in the implementation of policies.
Trade Union Representatives	<ul style="list-style-type: none"> • Play a key role in the welfare of staff. They contribute to discussions and subsequent actions on matters concerning all aspects of staff welfare. • Will inform their members on the interpretation of this policy

