

TRANS INCLUSION GUIDANCE

Version Control

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Responsible Officer

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1. Scope

- 1.1. This guidance applies to all University staff. This guidance applies to students who are also employees; any actions will relate to their employment and not their status as a student.
- 1.2. This document provides guidance on
 - Language, terminology and trans identities, including non-binary identities
 - Facilities for trans employees, including non-binary employees
 - Dress code for trans employees, including non-binary employees

2. Aims

- 2.1. The University aims to provide commitment, support and understanding to all trans people, including those with non-binary identities.
- 2.2. The University aims to create an inclusive workplace and learning environment, free from discrimination, harassment or victimisation where all transgender people are treated with dignity and respect in the gender in which they present themselves.

3. Overview

- 3.1. No job applicant or member of staff will be treated less favourably than any other on the grounds of gender identity. The University will respond positively to the needs of transgender staff by providing a professional and consistent service where all staff feel welcome, safe, valued and supported in achieving their full potential.
- 3.2. The University will provide an inclusive environment to members of staff in terms of:
 - their gender identity/expression
 - their right to work and study with dignity
 - their name and personal identity
 - their privacy and confidentiality
- 3.3. The University is committed to supporting all staff who are directly or indirectly affected by the associated symptoms of menopause and have a dedicated [web page](#) which provides information, resources and guidance for all staff. Whilst information and resources often refer to 'women' experiencing the menopause, we acknowledge that our staff who are non-binary or trans will experience the menopause and its associated symptoms whilst not identifying as a woman or female.
- 3.4. The University is committed to equality, diversity and inclusion where every person makes a unique contribution to grow and succeed.

- 3.5. The University will respect the confidentiality and status of all transgender staff and will not reveal sensitive information without the consent of the individual.
- 3.6. The University recognises the right of every individual to choose whether to be open about their gender identity, gender expression and history. To share information with others about the employee's transition without their consent may amount to harassment and a criminal act.
- 3.7. The University will not tolerate bullying and harassment on the grounds of gender expression, perceived gender identity, or gender transitioning and will be addressed under the Bullying and Harassment policy and if found, will be regarded as a disciplinary matter.

4. Language, Terminology and Trans Identities, including non-Binary identities

- 4.1. We recognise that terminology around gender identity is evolving as awareness increases and more people self-define. Transgender is an umbrella term describing the diverse range of people whose gender identity differs from the sex that they were assigned at birth. An individual may identify as transgender but may not identify with the binary concept of woman or man.
- 4.2. We acknowledge that gender identity and sexual orientation are not interchangeable concepts. Gender identity is about a person's internal perception of their gender. Sexual orientation, or sexuality, is about to whom someone is physically and/or emotionally attracted. This may be to someone of the same sex ("lesbian" or "gay"), a different sex ("heterosexual" or "straight") or more than one sex ("bisexual"). We will not assume that a transgender colleague has a particular sexual orientation.
- 4.3. Managers and colleagues should respect how an individual describes themselves and, if in doubt, should ask rather than assume. Using inappropriate language and terminology can cause offence and distress and undermines our efforts to create an inclusive workplace.
- 4.4. Appendix 1 to this guidance provides a glossary of some of the most commonly used terms.

5. Facilities for Trans Employees, including non-Binary Employees

- 5.1. The University will support a transgender employee's right to use the toilets and facilities appropriate to their gender from the point at which the individual declares that they are living their life fully in that gender/begin their "real life experience". In some cases, the individual may wish to use a single-occupancy toilet during their transition, but they must not be pressurised to do so and this should not be seen as a long-term solution. A transgender person should not be expected to use an accessible toilet unless they prefer to do so.
- 5.2. The University will agree with the employee when they wish to start using the facilities appropriate to their affirmed gender and how this should be

communicated to colleagues. Any concerns raised by others will be dealt with promptly and sensitively and harassment of the individual will not be tolerated.

- 5.3. Where possible, the University will move from providing gender-specific toilets to gender-neutral toilets.

6. Dress Code

- 6.1. The university will not discriminate against any employee who chooses to wear clothing appropriate to their identified gender and choice of dress will not lead to employees being treated detrimentally. This includes employees who identify as non-binary or intersex who may not conform to gender norms for dress. However, it should also be noted that the university does not have a gender specific dress code in place.

7. Confidentiality

- 7.1. All records that include details of an employee's gender history will be destroyed in a secure manner unless there is a specific reason for retaining them (in which case the employee will be made aware of this and told why). Where other people in the organisation need to be aware of the employee's transition to make a change to a particular record, we will obtain the employee's consent, and restrict the information to those who need to know.
- 7.2. Where there is a need to retain documentation that shows someone's gender history, this information will be stored confidentially in line with the requirements of data protection legislation. The information will be held electronically in a secure environment that can be accessed only with the consent of the individual concerned. Only specified individuals will be allowed to access this information and those individuals will be made aware that breaches of confidentiality could be unlawful and result in disciplinary action.
- 7.3. Care will be taken to ensure that any search of the organisation's records by others will not inadvertently reveal an employee's gender history.
- 7.4. It is an individual's decision whether or not to reveal their gender status and we will respect their right to privacy. The right to privacy will apply regardless of whether or not the individual has a Gender Recognition Certificate (GRC).
- 7.5. Where an employee discloses information about their gender history or status (verbally or in writing), this will be treated as confidential. This includes any information provided to the line manager or the People Directorate. Such information will not be shared with others, unless there is a specific reason and then not without the written consent of the individual concerned. Disclosure of the gender history of someone with a GRC without their specific permission would normally be a criminal offence.
- 7.6. Information relating to an employee's gender status or history will not be disclosed to a third party without the individual's consent, for example when responding to a reference request.

Appendix 1 - Language, terminology and trans identities, including non-binary identities

Managers and staff may come across a range of terms related to trans people. The following is provided for information purposes only. It is important, however, to be guided by the individual employee about personal information relevant to them and terms they may prefer to use.

Terminology in the 'transgender' field is varied and constantly shifting as understanding and perceptions of gender variant identities and gender non-conforming expressions change. The terms described below may vary in their usage and may become outdated.

Acquired gender: Used in the Gender Recognition Act 2004 to describe a person's gender after transitioning. As this is a legal term, many people now prefer to use the term "affirmed" gender.

Assigned gender: The gender assigned to someone at birth, based on their physical characteristics.

Cisgender (or Cis): Describes someone whose gender identity matches the sex that they were assigned at birth.

Cisnormative: An assumption that gender is a binary concept and that being cisgender is the norm.

Cross dresser: Someone who chooses to wear clothes not conventionally associated with their assigned gender. "Cross dresser" is now used in preference to the term "transvestite", which is considered to be outdated and can cause offence. Cross dressers are generally comfortable with their assigned gender and do not intend to transition.

Dead naming: Describes not using an individual's chosen name.

Gender: Describes how an individual presents themselves and this may be as a woman, as a man, as having no gender, or as having a non-binary gender. Gender is increasingly recognised as being on a spectrum and not a binary concept.

Gender dysphoria: A recognised medical condition where the individual experiences severe discomfort and anxiety because their gender identity does not align with their biological sex.

Gender expression: How someone manifests their gender identity in society, for example through their appearance and behaviour.

Gender identity: A person's internal perception of their gender, their sense of self. For transgender people, their gender identity does not match the gender they were assigned at birth.

Gender reassignment (or transitioning): The process where an individual changes their expressed gender to live fully in the gender with which they identify. For example, a person who was assigned female at birth decides to take steps to live the rest of their life as a man. Gender reassignment does not require medical treatment and is a protected characteristic under the Equality Act 2010. For many transgender people, the terms "gender confirmation" or "gender affirmation" are now preferred to "gender reassignment".

Intersex: An intersex person is born with ambiguous genitalia and/or sex chromosomal variations that do not fit within the typical definitions of female or male. An intersex person may self-identify as a man or a woman or neither.

LGBT+: Lesbian, gay, bisexual, transgender is a commonly used acronym. The "plus" denotes inclusion of other identities such as intersex or asexual. The acronym is often expanded to LGBTQI with "Q" standing for Queer (or questioning) and "I" for intersex.

Misgendering: When a transgender person is referred to by the sex that they were assigned at birth.

Natal gender (or natal man/natal woman): Used as an alternative by some people to Cisgender (or Cis).

Non-binary: A term used by people who feel that their gender identity is not binary male or female. Some non-binary people do not identify with any gender while others may feel that they embody elements of both genders, or a gender that is different to either male or female. Some transgender people will identify as non-binary but many do not.

Sex: The biological and physiological differences that define men and women.

Real Life Experience: Refers to a specified period of time in which a person lives full-time, including work or study, in the gender with which they identify. This is in order to gain access to treatment such as hormone therapy and gender reassignment surgery. The length of a real-life experience varies from person to person but is usually between one and two years.

Trans man (female to male): Used to describe a person who was assigned as female at birth but has a male gender identity and transitions to live permanently as a man.

Trans woman (male to female): Used to describe a person who was assigned as male at birth but has a female gender identity and transitions to live permanently as a woman.

Transgender (or trans): An umbrella term describing the diverse range of people whose gender identity or gender expression differs from the gender they were assigned at birth. The term can encompass individuals who are cross dressers or non-binary.

Transitioning: The steps taken by individuals to live in the gender with which they identify. These steps can be social, psychological, legal and may sometimes involve medical procedures. Each person's experience of transitioning is unique to them. Transition is not about the individual "becoming" as it is about them "gender affirming".

Transsexual: Under the Equality Act 2010, a transsexual person is someone who has the protected characteristic of gender reassignment (see above). A transsexual person does not have to be under medical supervision to be protected under the Act. Employers should recognise that many individuals regard being transsexual as part of their gender-identity history and that when they transition may simply want to be described as a woman or a man. The term is now considered to be out of date and the more inclusive term "transgender" is preferred.

Transphobia: A fear of or a dislike of transgender people. It is based on prejudice and misunderstanding and can involve verbal abuse, physical violence and other forms of harassment.

Appendix 2 - Summary of the Law and Good Practice

The Equality Act 2010 specifically protects transgender people. Transgender people are described as those proposing to undergo, undergoing or having undergone a process (or a part of a process) of gender reassignment by changing physiological or other attributes of sex. This means they may use a new name and pronouns, and dress differently. Some may have medical treatment, but they don't have to in order to be protected by the law. The Equality Act 2010 covers people who have undertaken only a small 'part of the process', such as name and pronoun change.

People are protected, as service users, in the delivery of goods, facilities, and services under the Public Sector Equality Duty (PSED) of the Equality Act 2010, the general duty to have due regard to the following:

- eliminating discrimination, harassment, victimisation and any other conduct that is prohibited under the Equality Act;
- advancing equality between persons who share a relevant protected characteristic and persons who do not share it;
- fostering good relations between persons who share a relevant protected characteristic and persons who do not share it.

Direct discrimination includes perceived and associated discrimination. In terms of gender transition, this occurs when someone is treated less favourably because of:

- a protected characteristic
- their gender reassignment
- a perception that they transgender, are undergoing or have undergone gender reassignment, even if they are not
- their association with someone such as a partner, spouse, or another family member or carer who has changed their gender.

Indirect discrimination occurs when a rule that is neutral as it applies to most people, creates a disadvantage for a person with a protected characteristic. It is not enough for an employer to say "we're treating you in the same way as we would any other employee", if that treatment puts a transgender staff member at a disadvantage.

Harassment means any unwanted behaviour that violates a person's dignity or creates a hostile environment. Harassment has a legal definition in the Equality Act 2010 and may be summarised as:

“Unwanted conduct related to a protected characteristic which has the purpose or effect of violating the dignity of an individual, or creates an intimidating, hostile, degrading, humiliating or offensive environment for the individual.”

Victimisation occurs when someone is treated less favourably as a result of having complained (either themselves, or someone else has complained on their behalf) or supported a complaint about discriminatory treatment under the Equality Act.

The Gender Recognition Act, 2004 allows those who have changed their gender role permanently to obtain a gender recognition certificate (GRC). This means that they have their new gender status, ‘for all purposes’; the person automatically qualifies for a birth certificate if the birth was originally registered in the UK. If a person has a GRC, information about the person’s gender history is described as ‘protected information’, so it must not be passed on to anyone without the permission (preferably written) of the person concerned. This means if member of staff discovers, in the course of doing their job (‘in an official capacity’) that a work colleague has a trans history, and the staff member shares that information with another person, without obtaining the person’s consent, this can be considered a criminal act. So, it is essential to have the permission of the transgender staff, before sharing this information with anyone else. The provisions of the GRA are now incorporated into the Equality Act.

Not having a GRC must not be used to disadvantage a transgender person. Asking to see a GRC is not allowed, and may be regarded as harassment. It is best to treat all known transgender and non-binary people as though they have the protection of a GRC. Birth certificates should also not be requested although these may be required for pension enrolment. Identification can usually be provided by passports or driving licences which may be obtained by producing a doctor’s letter.

A GRC is not needed in order to change one’s name, pronouns, or the way one dresses at work.

The General Data Protection Regulation (GDPR), which came into force on 25 May 2018, requires employers to comply with principles for processing personal data, including being transparent by providing information to employees about personal data that they hold and how it is used. Employers must protect against unauthorised access and disclosure of personal data relating to an individual’s health.

The Human Rights Act 1998 (HRA) underpins all equality legislation that relates to employers in the public sector, and those for whom they provide services.

Article 3 creates an absolute ban on degrading treatment.

Article 8, in particular, requires transgender and non-binary people to be treated with respect, dignity and fairness, and to protect their privacy in family life and correspondence.

Article 14 is also important; it does not stand alone, but it ensures that all the other Articles under the HRA are delivered in a non-discriminatory way.