

Supporting Transgender Colleagues Guidance

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Overview

1. The aim of this guidance is to address the requirements, needs and issues that may arise when a transgender, non-binary or intersex person works for the Trust in any capacity or when a person transitions during their employment. This guidance is intended to supplement the policy IGG04 – Transgender Equality Guidance Supporting Trans Patients and Employees
2. This guidance applies to individuals employed throughout the Trust, including contractors, volunteers, students, bank and agency staff and staff employed on honorary contracts covering all areas and activities of the organisation. DBS records for agency workers will be stored by the Temporary Staffing Team.
3. The guidance applies to staff who consider themselves to be trans, transitioning, non-binary, intersex or are considering or planning to undertake gender reassignment.
4. This guidance provides managers with tools to support a member of staff who is undertaking gender reassignment (transitioning).
5. This guidance refers to trans, transitioning, non-binary and intersex people throughout; for the purpose of this guidance these terms are used to describe all people who have a gender identity which differs from their sex assigned at birth and the more fluid identities of 'genderqueer' people. Genderqueer – also known as non-binary, is a catch all category for gender identities that are not exclusively masculine or feminine.
6. It is appreciated that terminologies and definitions do change on occasion and this guidance will be updated to reflect these changes wherever possible.
7. Support in relation to supporting patients can be found in the Transgender Equality Guidance (IGG04) which is available on the intranet.

Definitions

1. Gender Dysphoria - Gender Dysphoria is a recognised medical condition and is the distress felt by someone whose gender identity does not align with their sex assigned at birth. A person can feel severe anxiety and stress due to gender dysphoria.
2. Gender Reassignment - Gender reassignment refers to individuals who either: have undergone, intend to undergo or are currently undergoing gender reassignment (medical and surgical treatment to alter the body) or who do not intend to undergo medical treatment but wish to live permanently in a different gender from their sex at birth.
3. Social Transition - The social changes that someone may choose as part of their transition; may include coming out, changing one's names and pronouns, using differently gendered facilities, changing one's gender performance and presentation. This does not include physical transition.
4. Gender Reassignment as a Protected Characteristic Under the Equality Act 2010 - The Equality Act 2010 (The Act) defines Gender Reassignment as a 'Protected Characteristic'. People who are proposing to undergo, are undergoing, or have undergone a process (or part of a process) to reassign their sex by changing physiological or other attributes of sex have the protected characteristic of gender reassignment. Under the Act 'gender

reassignment' is a personal process, that is, moving away from one's birth sex to the preferred gender, rather than a medical process.

5. The terms 'Trans' and Transgender - Transgender is a term for people whose gender is different from their assigned sex at birth. Transgender can be abbreviated to 'trans', but transgender should always be used as an adjective, not a noun i.e. referring to "transgender people" is appropriate but not "transgenders" which would be offensive.
6. Transsexual Person - Transsexual is a medical definition and not an alternative to transgender. Transsexual refers to a person who permanently changes their body, usually, but not always, using hormones or surgery known as 'transitioning', however some people prefer to be known simply as a transgender person, rather than a transsexual person.
7. Cisgender - The sex a person was assigned at birth corresponds with the personal gender identity of that individual (Cis woman / female, Cis man / male)
8. Genderqueer - Also known as non-binary, is a catch all category for gender identities that are not exclusively masculine or feminine. Genderqueer people may identify as either having an overlap of, or indefinite lines between, gender identity; having two or more genders (being bigender, trigender, or pangender); having no gender (being agender, nongendered, genderless, gender free or neutrois); moving between genders or having a fluctuating gender identity (genderfluid); or being third gender or other-gendered, a category which includes those who do not place a name to their gender.
9. Transphobia - A term used to describe a person with a fear or hatred of people who are transgender.

Supporting Colleagues

1. If a member of staff is considering coming out or transitioning at work, they are encouraged to discuss with their manager how this will be managed and how they can be best supported.
2. Issues for consideration include:
 - Who will inform the team of the change? The staff member may prefer the manager to do this.
 - Will the change affect the job role, with regard to the nature and context of the role i.e. not being a trans person is an 'occupational requirement'. The requirement must be crucial to the post and not one of several factors. Line managers should seek HR and/or legal advice if they consider an occupational requirement may apply.
 - What changes to systems and records will be required e.g. a change of name for payroll and IT systems.
 - Does the team require training to support the member of staff and to prevent any potential discrimination from occurring. Potential training needs should be discussed with the HR Advisor for the area to consider the training needs and available resources. Some suggested options are available at the end of this guidance.
3. The matter must be managed sensitively, and wider team involvement must be considered with the individual's consent and approval.

4. There is no obligation to disclose gender history as a condition of employment. Trans individuals may have had poor experiences or harassment as a result of disclosure. Should they choose to disclose their gender history it would be unlawful to use this as a reason for not offering them the job. Similarly, it is unlawful to subsequently dismiss someone for not disclosing this, (Equality Act 2010).
5. Identify what support is available for the staff member e.g. LGBTQ+ Network, counselling, peer support. Research has shown that trans people are likely to be disproportionately affected by mental and physical health problems, such as depression and managers should be aware of this and be able to support the individual to access the appropriate support services with their consent.
6. Gendered facilities such as changing rooms, showers and toilets can cause concern for a line manager in supporting a member of staff in their transition period. It can also be daunting for the person transitioning as they may be nervous about what colleagues may say about them using facilities they have not used previously. It can also be a concern for colleagues including those who hold specific beliefs such as strong religious beliefs. Usually, people will be able to use the facilities of the gender they identify as at the point where they begin living as that gender, regardless of progress through the transition or surgeries which may or may not have taken place, but further advice can be provided by the HR Advisory Team where conflicting views are present to find a workable solution to support all team members.
7. Managers should allow disabled facilities to be used where a disability is present, and not as a workaround as a place for the transgender person to use in place of the facilities allocated to the gender they identify as. This is not acceptable practice or use of facilities.
8. Some transitioning people may work in public or patient facing roles, making the changes they are going through unavoidably visible, especially in the early stages. Some staff may prefer to move to a less public facing role while they go through early stages of transition, or until they transition fully. This should only ever be an option for the staff member undergoing transition, and never be directed as a Trust requirement for the person to move into a less public facing position due to their transition taking place.
9. Bullying and Harassment – There is extensive evidence which shows that LGBT+ staff are more likely to experience bullying than other staff groups. This can include acts such as persistent or deliberate use of the wrong pronouns or name for transgender individual. All bullying should be dealt with proactively through the Bullying and Harassment Policy. It's important to remember that if you witness poor behaviours, these should be reported as the individual may not feel able to raise concerns.

Time Off For Treatment

1. The Trust appreciates that time away from work will be required to attend appointments and potentially for surgical procedures. Wherever possible, managers will discuss how much time is anticipated that the individual will need away from work, as this may be a substantial length of time.
2. There is no law in place to specify any minimum or maximum time allowed for transition to take place. However, where an employee is absent for a long period of time, the Trust Employee Wellbeing policy may apply. Examples could be complications which mean the person is unable to return to work or the person is taking time beyond that used to transition. In these cases, the situation will be managed in compliance with the policy as for all members of staff.

3. The Trust will support any person who undergoes any surgical or medical treatment in relation to transitioning. Policies will be used to support this including the Special Leave Policy, Employee Wellbeing policy, Flexible Working policy and Annual Leave policy (including special leave).
4. Time off for medical appointments will be dealt with by the line manager with a degree of flexibility to ensure the person can attend their appointments while needs within the service are maintained. People requesting time off for medical appointments which relate to transition will not be treated any more or less favourably than people who take time off for any other medical appointment. Consideration should be given to the distance of travel required for the appointment which should be taken into account and supported as much as reasonably possible.
5. Where a person works part-time, they should arrange appointments on non-working days wherever possible, or at the beginning of the day. However, the Trust recognises this is not always possible.

Recruitment

- 1 The Trust's Recruitment and Selection policy and process ensure that we select the best person for any job based on merit alone and free from bias on the grounds of factors relating to protected characteristics (such as gender reassignment, age, disability, gender or race) that are not relevant to the person's ability to do the job.
- 2 Recruiting managers operate using the Trust recruitment and selection policy which provides a fair and equal application process for all candidates. Any information relating to a person's protected characteristics are not available to recruiting managers until the point of interview, preventing unconscious bias when candidates are being shortlisted for interview.

Recruitment Compliance

1. As part of compliance checks, key areas to note are:
 - NHS jobs applicants are not required to state any former names
 - NHS identity verification is required, however the scope of the documentation allowed should enable applicants to bring documents which are in their acquired gender.
 - Certificates and qualification information are required for some positions and may contain the previous name of the applicant. Where this is the case confidentiality must be ensured and respected, with sufficient measures taken to ensure it is maintained.
 - Equal opportunities monitoring on NHS jobs currently does not have an option for transgender, this is likely as there is no requirement for a transgender person to make a disclosure.

Identity, References, Certificates and Qualifications

1. For transgender, non-binary and intersex people who are successfully appointed into employment at the Trust, clarification might be needed about what documentation to provide under the gender they identify as.
2. Proof of identity for transgender people - Applying for gender recognition is completely optional for transgender people. Transgender, non-binary and intersex people who do not have a gender recognition certificate:
 - can still change their name, title and gender on almost all records held by organisations.
 - can still use the toilets, changing rooms and other single-sex facilities of their choice.
 - can still get a driving licence and passport with their choice of male or female gender marker.
 - are still entitled to respect for their gender identity from employers and other organisations.
 - are still protected from discrimination, harassment and victimisation by equality legislation.
 - information about them is still confidential and protected by the Data Protection Act.
3. For transgender people who are successful in their application for a Gender Recognition Certificate (GRC), they will receive a full GRC and will also be entitled to a new birth or adoption certificate. The new birth certificate can be presented as proof of identity. This must not be requested; it can only be volunteered by the individual.
4. A Gender Recognition Certificate must never be requested as proof of identity. This is unlawful.
5. There are other instances which make providing identification much more difficult. Examples could be:
 - people from non-European Union countries or people who want to remain married or in a civil partnership after their transition (legal recognition is not able to be given unless the marriage is annulled). In these instances, flexibility should be given in providing a passport or utility bills with the preferred detail shown.
6. Certificates and Qualifications – Some examining bodies are not willing to provide certificates under a new name. The Trust requires proof of qualifications for certain roles within the organisation, for example Registered Mental Health Nurses. In instances where the name shown is under a previous identity, the applicant will need to supply the required information to be appointed to the post. A discussion should take place to confirm the process of copying and recording the certificate information on the system to ensure confidentiality is maintained and that the person providing the information feels safe. Where qualification or certificate information which is required is not provided, the Trust holds the right to withdraw a conditional offer of employment.
7. DBS Checks - To enable the bureau to do its job, the DBS has to be aware of any previous names and/or gender of the prospective employees. However, the bureau has devised a process which allows trans applicants to pass details on to the DBS without first revealing

them to the employer.

The separate application procedure allows trans applicants to exclude previous names from the application form (ensuring protection from disclosing gender identity history from the employer). However, applicants will still be required to send details of their previous identity in a separate letter directly to the 'Sensitive Application Team' within the DBS. The bureau will then check the data sources held against both current and previous names.

This avoids the need for disclosure about gender history or former name to the employer or voluntary body at the application stage but allows the DBS to carry out the requisite checks against any previously held identities. It should be noted that where a conviction or (in Enhanced Disclosure cases) other relevant information has been recorded in a previous name, this will be highlighted on the disclosure and as such details of any previous identity may be revealed. Where there are no convictions recorded, the details of any previous names that have been provided directly to the DBS will not be revealed in the disclosure.

Seeking and Providing References

1. The Trust requires references for jobs held previously, and this could be difficult for a transgender, non-binary or intersex person if they were known under their previous identity in past job roles.
2. The person will be made aware of policies supporting equality, diversity and inclusion to ensure they feel safe providing reference details. Where reference details are withheld, a conditional offer of employment will be withdrawn by the Trust.
3. Where the Trust is asked to provide a reference for a transgender, non-binary or intersex member of staff to another organisation, no mention will be given to the gender identity status of a person. The reference will be completed in the same manner as it would be for any other staff member.

Payroll and Record Keeping

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1. Where a name/gender change takes place during employment with the Trust, suitable documentation will be required as evidence. This should be presented to the HR Business Partner for processing securely. Accepted documentation includes:
 - a) A letter from the person's Doctor or assigned gender specialist confirming that they are undergoing transition
 - b) A driving licence or passport or another suitable evidence of change of name document.

Further information

For advice and support on LGBTQIA+ issues, contact 0345 3 30 30 30 or email HELPLINE@lgbt.foundation.

LGBT Switchboard (national LGBTQIA+ helpline): www.switchboard.lgbt or contact 0800 0119 100

Galop (national charity for LGBTQIA+ victims of domestic abuse, hate crime or violence): www.galop.org.uk or contact 0800 999 5428

Training: This list is not exhaustive but is an indication of organisations which offer specialised training in relation to Trans issues

Cool 2 B Trans - [Trans Awareness Training - Cool2BTrans - Katie Neeves - Trans Ambassador](#)

A variety of training including free e-learning, online and in person training

Mermaids - [Training - Mermaids \(mermaidsuk.org.uk\)](https://mermaidsuk.org.uk/training)

Training with a focus on young people

The Diversity Trust - [Transgender Awareness Training - The Diversity Trust](https://www.diversitytrust.org.uk/transgender-awareness-training)

Training for a variety of size groups aimed at raising awareness and understanding.

Stonewall - [LGBTQ+ Workplace Training & Events | Stonewall](https://www.stonewall.org.uk/resources/training)

A range of training and additional best practice and guidance documents are also available