

Trans equality guide and model policy

Why is a trans equality policy needed?

Many large organisations and a number of smaller ones have employees who are trans. All benefit from attracting a diverse range of job applicants. A trans person who is supported at work is likely to be a happy and therefore more productive and loyal employee. Some will be transitioning in the workplace, and it is important to support these employees appropriately. Trans people are protected under the Equality Act 2010: 'gender reassignment' is one of the nine protected characteristics. It is far better to have a comprehensive trans equality policy in place than to hurriedly get one together when a member of staff informs the organisation that they are trans or a job applicant enquires about policies.

Why 'Trans equality policy' not 'Gender reassignment policy'?

Trans people should be protected from discrimination and harassment at all times, not solely when they are transitioning. Any policy must reflect that. Although the phrase 'gender reassignment' is used in the Equality Act 2010, it is now generally considered to be out-dated language. Both the Equality Act 2010 and the Gender Recognition Act 2004 are clear that gender reassignment need not involve any medical intervention. However, the phrase is widely misinterpreted to assume that it is a medical process, and this can feed myths and misunderstandings.

What should a trans equality policy cover?

The policy should cover a wide range of topics – not solely focus on arrangements for when a person transitions. It should include:

- a statement of commitment from the organisation;
- definitions of terms used – with an acknowledgement that language can evolve quickly, especially around trans issues;
- information on the legal protections that trans people have, including the importance of respecting confidentiality;
- information on trans equality in recruitment;
- where to go and what will happen if someone experiences or witnesses transphobic discrimination;

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- advice on support for an employee transitioning at work;
- information about how trans equality will be promoted and monitored in the organisation;
- support for those with a family member who is transitioning.

UNISON working for trans equality

UNISON is committed to working for trans equality in the workplace, in society, under the law and in our union.

UNISON has an active network of trans members and national trans network meetings. Trans members organise with lesbian, gay and bisexual members in our LGBT group. Trans members have reserved seats on UNISON's national LGBT committee.

This guide can be read in conjunction with UNISON's bargaining factsheets on 'Transgender workers rights', 'Guide for reps supporting trans members' and 'Gender identity: non-binary inclusion', for more information and advice on further support. These factsheets and more information on our work for trans equality can be found at unison.org.uk/out.

Email out@unison.co.uk with any queries.

If you are a UNISON member experiencing difficulty at work, speak to your UNISON rep.

You can join UNISON at www.unison.org.uk/join

or by phoning UNISON Direct on 0800 0 857857

Commitment to trans equality

<Organisation name> is committed to promoting equality, diversity and good relations in everything it does – as a community leader, as a provider and commissioner of services, and as an employer.

<Organisation name> is committed to equality of opportunity for trans people throughout recruitment and employment, including supporting trans employees through any transitioning process. <Organisation> will not tolerate discrimination, victimisation or harassment on the basis of a person's gender identity, gender expression or trans status. <Organisation> seeks to provide a supportive environment for trans staff and to create a culture and environment where trans staff are able to thrive and are well supported during any process of transition.

The purpose of this guidance is to assist managers and trans employees in <organisation name> with practical information on workplace support.

Definitions

'Trans' or 'transgender' describes people whose gender identity differs from their sex assigned at birth. They are umbrella terms covering people who:

- are intending to undergo, are undergoing, or have undergone gender reassignment at any stage;
- identify as having a gender different from that which they were assigned at birth and are planning or have had medical interventions such as hormones or surgery;
- identify as having a gender different from that which they were assigned at birth, but who are not planning any medical intervention; and/or,
- are non-binary – that is, they are not solely male or female. They may define themselves as both, neither or something entirely different. They may or not have medical interventions to align their body with their non-binary gender identity.

These are not mutually exclusive alternatives.

'Transitioning' is the process undertaken by a trans person in order to bring their gender presentation into alignment with their gender identity. This often involves dressing differently, using a different name and pronoun (eg she, he or they) and changing official documentation. It

may involve various types of medical or surgical treatment, although this is not the case for all trans people.

<Organisation name>recognises there is no right or wrong way to transition and is committed to supporting each individual in their decisions.

Please see the glossary (appendix 1) for further information.

Employees who are transitioning at work

If an employee states that they are intending to transition at work, their line manager, in conjunction with other appropriate colleagues, should aim to make this process as smooth as possible. Managers should be aware that it can be an extremely difficult step for someone to approach their manager about transitioning. They are likely to worry about the response.

<Organisation is committed> to reassuring all staff that they will be supported and respected. The transition process will be led by the individual concerned.

Telling colleagues

The manager and employee will discuss the individual's preferences in relation to informing others, including other managers, colleagues, service users and other relevant contacts. They will agree whether the employee will do this, whether they would prefer the manager or a work colleague to do this, or a mixture of these options. They will also get express written agreement from the employee about when and how this will happen, including the details of the message and who it will be shared with. Levels of disclosure may vary in detail for different types of contacts and will be agreed in advance.

Uniforms and dress codes

If a uniform is in place for the role, managers will ensure that the trans employee has access to the uniform that is most appropriate at all times. Some trans employees may need access to both the male and female uniforms. Managers will be flexible, and will support the preferences of the trans person wherever possible. Trans staff have the right to comply with any dress codes in a way that reflects their gender identity and gender expression.

Changing facilities, toilets and other single sex facilities

Trans people are entitled to use single sex facilities in accordance with their correct gender. For

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non-binary people, this might mean using gender-neutral or accessible facilities, or using a combination of different facilities. However, trans people will never be required to use accessible toilets unless they wish to do so.

Updating records

Electronic records will be updated in a timely manner, to coincide with the date on which the workplace transition begins. Care will be taken to ensure that records do not link back to the former name – this may entail creating a whole new email address rather than simply changing the name on the existing one, for instance. The manager and employee will work together to ensure that nothing is missed.

New security passes with the correct name and a new photograph will be issued, without any replacement cost to the trans employee.

Paper records will be updated where possible. Those which cannot be updated – for instance, paper copies of references relating to the employee's recruitment – will be stored in a secure place, and clearly marked as only to be looked at by named persons.

Customer facing roles

There is no reason why an employee who is transitioning should not continue in a customer facing role. However, some people might prefer a period of redeployment during transition, or as a permanent change. Managers and HR will work with the trans person to find a solution that meets the needs of both the employee and the service.

Attendance at appointments and time needed for treatment and surgery

Paid special leave will be given in order for employees to attend transition-related appointments and treatment. These absences will not be counted in relation to absence monitoring, included in absences for references, taken into consideration for performance monitoring or, for instance, during redundancy procedures.

In addition, trans staff are entitled to the same sickness absence and pay as other staff.

Many people have to travel a long distance for appointments, and these may be given at short notice. People may need reduced hours or duties, or other changes to usual working arrangements, for a temporary period following some treatments. Managers will be as flexible as possible to accommodate this.

Action plan or check list

The trans employee and their manager might find it helpful to put in place an action plan, or to agree a check list to clarify the actions that will be taken over the course of the employee's transition, dates by which these will be done, and the person who will take responsibility. Please see appendix 2 for an example, which can be modified to suit the individual's needs.

Discrimination and abuse

<Organisation> has a zero-tolerance approach towards discrimination and harassment based on gender identity, gender expression or gender history. Inappropriate behaviour or language may constitute discrimination, harassment, bullying or victimisation. Discrimination including harassment, third party harassment and victimisation are covered by the Equality Act 2010. Managers are responsible for taking timely action where misconduct occurs on the grounds of an employee's gender identity, in line with the harassment policy. This will be monitored and followed up.

Support available

<insert here organisational support available – counselling services etc>

Legal protection for trans people

Gender Recognition Act 2004

The UK Gender Recognition Act (GRA) enables people aged over eighteen to gain full legal recognition for the gender in which they live. Applications are considered by the Gender Recognition Panel. Once a person receives a Gender Recognition Certificate (GRC), they are legally of that gender for every purpose and have all the rights and responsibilities associated with that gender.

Employment rights do not depend on whether a person has a Gender Recognition Certificate. Employers should not ask for a person's GRC and it should never be a pre-condition for transitioning at work. To make an application for a GRC, a person needs to show they have been living – and working - in that gender for at least two years. So being asked to show a GRC as a condition of changing employment details is like being asked to show a full driving licence before you can apply for a provisional one.

The Gender Recognition Act gives anyone applying for or holding a Gender Recognition

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Certificate particular privacy rights. It is a criminal offence to pass on information acquired 'in the course of official duties' about someone's gender recognition, without the consent of the individual affected. 'Official duties' include employment, trade union representation or supply of business or professional services.

Equality Act 2010

The Equality Act 2010 (England, Scotland and Wales) protects against discrimination because of gender reassignment in employment and service delivery. It bans direct and indirect discrimination and victimisation. There is similar protection in Northern Ireland under the Sex Discrimination (Gender Reassignment) Regulations (NI) 1999.

The Act makes clear that it is not necessary for people to have any medical diagnosis or treatment to gain this protection; it is a personal process of moving away from the gender assigned at birth to the correct gender.

People discriminated against because they are wrongly perceived to be trans, or who are discriminated against because of their association with trans people or issues, are also protected.

Genuine Occupational Requirements

In the vast majority of cases, the gender of a worker is of no relevance to their ability to do a particular job. However, the Equality Act 2010 does allow for an exception where being of a particular sex is an 'occupational requirement' of that post. If this is the case for an employee transitioning at work, they will be redeployed into a suitable position.

Recruitment

People who have already transitioned have no obligation to disclose their gender history. Job applicants and interviewees will not be asked their gender identity during the recruitment process – it is not a relevant criterion in selection. Neither is there any obligation for a transgender person to disclose this as a condition of employment. If they choose to disclose, this is not in itself a reason for not offering employment, and non-disclosure or subsequent disclosure is not grounds for dismissal. Appointing officers who become aware that an applicant is trans will maintain full confidentiality in relation to this.

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References

Where a reference request is received for an existing employee who has transitioned, <organisation> will respect the employee's privacy and only respond using the employee's correct name and gender in the reference.

Disclosure on sickness absence will not include time taken off for medical appointments related to transition. This information is strictly confidential and managers must be very careful of any record keeping in this.

When <organisation> requests a reference, we will make the request using the prospective employee's correct name and gender since transitioning. We will not mention previous names or gender identity, unless specifically asked to do so (in writing) by the trans person.

Criminal record checks/disclosure and barring

If the appointment requires criminal record checks, we will highlight to all applicants the confidential procedure available to trans people <insert relevant contact details eg for England and Wales, Scotland or Northern Ireland confidential service>.

Qualification certificates

<Organisation> recognises that it can be difficult and expensive for a trans person to change their qualification certificates. If these are in a former name then where possible a record will be made that the certification has been seen, but a copy will not be taken. If it is absolutely necessary for <organisation> to store a copy, they will be stored securely and only accessed by named persons.

Professional registration

If the employee's job involves professional registration, we will check whether the registration body has a specific, confidential process for gender transition.

Pensions and national insurance

Where pensions, national insurance contributions or other benefits are dependent on legal sex, trans people will be advised of the different implications of whether they do or do not have a Gender Recognition Certificate.

Roles and responsibilities

Employee

- Engaging with managers and HR around the logistics of transitioning in the workplace
- Reporting any instances of harassment, victimisation or discrimination

Manager

- Ensuring that colleagues are informed about the employee's transition in a manner that best suits the employee
- Maintaining confidentiality at all times
- Thoroughly investigating any instances of harassment, victimisation or discrimination
- Supporting the employee in any way that is necessary and appropriate

HR

- Ensuring that this policy is followed at all times
- Maintaining confidentiality, including securing paper documents and files

IT Department / Support Services

- Changing names, titles and pronouns on email and other systems
- Issuing updated security passes and ID badges

Learning and development

- Providing trans equality training as a general part of the equality and diversity training programme

Trade unions

- Supporting the employee if they experience harassment, victimisation or discrimination
- Discussing and agreeing any changes to this policy.

Support for employees with a family member who is transitioning

If an employee is supporting a family member who is transitioning, they may need to take time off to attend appointments and treatment or give assistance following surgical procedures. Some of these may be at short notice, and may involve travelling a long distance. Managers will be as flexible as possible to accommodate this.

Promotion of trans equality

As well as ensuring that trans staff are fully supported, <organisation name> will demonstrate our commitment to trans equality in the following ways:

- Ensuring that all training courses that are delivered are fully inclusive of trans people – this includes both face-to-face training and e-learning
- Marking important dates for the trans community, such as Trans Day of Visibility (31st March) and Transgender Day of Remembrance (20th November)
- Including trans people in publicity and marketing materials
- Ensuring that all forms and surveys are inclusive of trans people, including non-binary people for both staff and clients
- Including trans equality as a core part of the organisation's equality agenda and objectives
- Investigating fully all complaints of harassment, victimisation or discrimination on the grounds of gender identity, gender history, trans status or gender expression
- Monitoring the implementation of this policy.

Appendix 1 – Glossary

Gender identity: a person's deeply felt internal and individual experience of gender, which may or may not correspond to the sex assigned to them at birth

Gender expression: a person's external gender-related behaviour and appearance, including clothing

Transgender or trans person: a person whose gender identity does not conform to the sex they were assigned at birth. These are inclusive, umbrella terms, including people who describe themselves as transsexual, cross dressing people, and people who have a more complex sense of their own gender than either 100% female or 100% male

Gender binary: the classification of sex and gender into two distinct and disconnected forms of masculine and feminine

Gender variance: gender expression that does not match society's norms of female and male

Non binary person: a person who does not identify as solely male or female. They may identify as both, neither or something entirely different

Gender fluid: having a gender identity which varies over time

Transsexual person: legal/medical term for someone who lives (or wishes to live) permanently in the 'opposite' gender to that assigned at birth

Gender dysphoria: medical term for deep-rooted and serious discomfort or distress because of a mismatch between a person's biological sex and gender identity; overwhelming desire to live in a different gender to that assigned at birth

Gender reassignment: the process of transitioning from the gender assigned at birth to the correct gender. This may (or may not) involve medical and surgical procedures.

Legal sex: The sex recorded on your birth certificate. Rarely relevant at work. Currently binary in the UK. Changed by applying to Gender Recognition Panel.

Gender Recognition Certificate: issued by the Gender Recognition Panel – signifies full legal rights in acquired gender and allows the issuing of a replacement birth certificate.

Appendix 2 – Action plan

Are there any temporary or permanent changes / reasonable adjustments to the role which should be considered to support the employee? Considerations should include security aspects such as lone working, night working.
Is any time off required? If so how will this be managed? Consider flexible working methods, if appropriate)
What will the employee's title and name be? What pronouns will be used? When will they start using these? Will there be any phasing?
Are there any dress codes to be considered? Are new uniforms needed?
If applicable, how will single sex working requirements be managed?
When and how should colleagues be informed of the transition?
Is there any guidance material which the employee wishes to share with managers and colleagues?
Should the employee encounter unacceptable behaviour towards them (colleagues or service users) who should this be reported to?
Are there any other actions not covered by above?
Is there an agreed date for when this action plan will be disposed of in accordance with the requirements of the Data Protection Act 1998?
Actions agreed
Date of next meeting

Who needs to know?

	Who will tell them?	When?	Date completed
Senior Manager			
HR Representative			
Line manager			
Team members			
Other colleagues			
Others (specify)			

Appendix 2 – Action plan

Changes to records

	Who will do this?	When?	Date completed
HR Records			
Name badge			
IT systems including email			
Website			
Voicemail			
Internet/intranet address entry			
Union membership			
Pension scheme			
Certificates/awards			
Personal file and related data			
Other:			

Details of meetings

Date	Comments	Actions	Date of next meeting