

Procedure for Supporting Individuals Who are Transgender (Trans)

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PURPOSE	This document details the procedures that must be undertaken to ensure the Trust meets its responsibilities as a service provider and an employer for Transgender (Trans) and non-binary people.
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1. Introduction

- 1.1 This procedure has been developed to ensure that people, who use the services provided by the Trust, are employed by the Trust or come into contact with the Trust for any reason, are treated with dignity, respect and in line with legislation.
- 1.2 This procedure provides guidance on the Trust's expectations and other considerations that may be necessary for Trans patients, employees, service users, and visitors to be treated with respect and dignity by everyone at all times.
- 1.3 The procedure is structured to detail:
 - 1.3.1 standards and procedures to support people who are using Trust services.
 - 1.3.2 standards and procedures to support staff.
- 1.4 Following consultation, it has been agreed that for the purpose of this document the term Trans and Trans people will be used as it is a more encompassing term and generally accepted by the Trans community. Trans is an umbrella terms used to cover numerous types of gender identity including non-binary, to describe people whose gender is not the same as, or does not sit comfortably with, the sex that they were assigned at birth.
- 1.5 The term Trans is the preferred term used by transgender people. It recognises other gender identities such non-binary, gender fluid and non-gendered where their gender identity may not fit neatly into societal norms regarding gender, for example, they may feel they are not totally one gender or the other; they may not identify with the assigned birth gender or they may not identify with any gender at all.

2. Standards and Procedures To Support People who are using Trust Services

- 2.1 The individual should be asked how they wish to be addressed and the correct pronouns should be used at all times e.g. she/he/they etc. Please refer to appendix B of the policy for more information on gender neutral / gender inclusive pronouns.
- 2.2 A patient may not have the support of their family with regards to changing gender i.e. they may refer to the patient in terms of their previous gender. If this is the case staff should refer to the patient in the manner requested by the patient.
- 2.3 **Medical Records**
 - 2.3.1 Medical record keeping for Trans people can be a challenge for clinicians and staff. Transgender status forms part of an

individual's history but does not necessarily, and often is not relevant, to why they are accessing services.

- 2.3.2 Once a Transgender person has changed their name and/or gender all subsequent medical records must reflect this. This must always be done and is not dependent on having a Gender Recognition Certificate (GRC). Trans service users have a right to change their name and gender on their NHS records and would be able to bring a civil claim against a Trust which refused to agree to their request.
- 2.3.3 Former medical records and patient information will be merged with the new file that may include a new NHS number, patient name and gender.
- 2.3.4 Standard information governance procedures apply. Refer to I.T. Acceptable Use Policy and Security Access Control Policy.
- 2.3.5 Withdrawn legacy case notes must be held in a secure storage and only accessed with authorisation by the service user.
- 2.3.6 All correspondence created by the Trust staff should make no reference to the previous identity and gender. Identity comment should be avoided about Trans status unless this is a specific and immediate issue in treatment, e.g. "X is a 47 year old Trans woman" should be recorded as "X is a 47 year old woman".
- 2.3.7 Any medical summary (such as discharge notes/ referrals) which includes reference to the patients Transgender status should be done with specific consent as each disclosure of this information could otherwise breach the Gender Recognition Act 2004 and may constitute a criminal offence. Patients can give verbal consent and this must be documented where appropriate.
- 2.3.8 Recording of Trans status should only be made with the specific written consent of the service user. This is most likely to be relevant when recording for example:-
 - a) Past medical/mental health history
 - b) Relationship/family issues
 - c) Specific issues in relation to assessment and treatments for Gender Reassignment
- 2.3.9 Any breach of this procedure must be recorded through Datix.

2.4 Patient Care

- 2.4.1 In some situations an individual's gender assigned at birth will have important implications for the individual's subsequent assessment and treatment, for example when assessing renal function and lung capacity. It is essential therefore that staff make this clear to individuals before assessments, tests or investigations are carried out where this is applicable. For example following a gender question on a standard proforma Male/Female, there will need to be a supplementary question asking "Is this the gender you were assigned at birth? Yes/No.? If no, please discuss with the healthcare professional who has asked you to complete this proforma as this may have significant implications for your treatment".
- 2.4.2 It is important that each ward / department has a local process in place to ascertain when and why it is important to ask the patient if their gender differs to the gender they were assigned at birth. As previously stated, for certain departments this may have treatment implications.
- 2.4.3 In instances where a Trans person is admitted to inpatient services, protecting their dignity, safety and privacy should be paramount. In such circumstances decisions, such as ward/room allocation, must be made in conjunction with the service user themselves wherever reasonable. When caring for patients at home by community services it is essential to treat a Trans individual and their environment with respect.
- 2.4.4 Assigning Trans patients to side rooms should not become a default position based purely on their Trans status. The patient may be asked if they prefer the privacy of a side room, but this must not be arranged without their consent. Side room availability is dependent upon the clinical need of the ward or department.
- 2.4.5 The patient must be treated as their identified gender at all times. This includes using the preferred gender facilities such as bathroom, toilets and hospital provided clothing.
- 2.4.6 Staff need to be aware that the Trans patient may need sensitive support for some areas of their care, e.g. a female may need to shave facial hair, a male may need feminine hygiene products such as sanitary towels (to ensure that a sanitary towel bin is available the patient may be advised to use the disabled toilet as this is gender neutral).

- 2.4.7 If staff need clarification about any aspect of the patients care then staff should have an open dialogue with the respective patient.
- 2.4.8 A chaperone of the preferred gender may need to be provided if the patient is undergoing sensitive/intimate examinations. This should be established through open dialogue with the patient. Please refer to the Trust Procedure for the Use of Chaperones.
- 2.4.9 If, in an emergency situation, if it is unclear if the patient is Trans (e.g. because they are unconscious or lack capacity) the staff should try and ascertain the person's preferred gender before contacting the family or moving to a ward. For example, staff could look for forms of identification the patient has to see if this will indicate their preferred gender.
- 2.4.10 The Trust has a zero tolerance policy on discrimination on any grounds. Any issues relating to possible discrimination that the Trans patient may experience should be dealt with in the same way as any other incidents of discrimination, including a Datix incident report. Scenarios can be found in Appendix D.

3. Standards and Procedures to Support Staff

3.1 Recruitment and selection

- 3.1.1 There are no barriers to a person who identifies as Trans from applying for employment within the Trust. All those involved in the recruitment and selection process should be aware of their responsibilities to select fairly and without prejudice.
- 3.1.2 If a Disclosure Barring Service (DBS) check is required the law requires that applicants disclose all previous names and addresses to the DBS so that they can process an application correctly, and return accurate results. The DBS have a process to allow applicants to disclose previous gender/name information to the DBS only. This information does not need to be revealed on the DBS application form or to a potential employer. This is known as the 'Sensitive Applications Process'.
- 3.1.3 Staff that are professionally registered should be advised to contact their professional bodies to find out whether there are any specific requirements in terms of name changes etc. Where the Trust has to keep evidence of professional status or qualifications, how this information will be retained should be discussed with the member of staff, so as not to compromise or breach disclosure of protected information.

3.1.4 Applicants do not have 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 this must not be used as a reason for not offering the person employment with the Trust and also non-disclosure or subsequent disclosure are not grounds for dismissal.

3.2 **Supporting Gender Transition in the Workplace**

3.2.1 Once an employee has decided to change their gender identity it is advised that they have a conversation with their immediate line manager or equivalent in order to access Trust support services that they may wish to benefit from.

3.2.2 If an employee feels unable to approach their line manager in the first instance, support can be accessed from the Inclusion team and/or Human Resources.

3.2.3 The line manager or equivalent should listen, show support, discuss levels of confidentiality, and agree to work in partnership. The process should be led by the individual as much as possible.

3.2.4 The line manager or equivalent is responsible for agreeing an action plan and ensuring sufficient support for the individual. A manager's guide and action plan template can be found in Appendix C.

3.2.5 The line manager, or equivalent, will need to discuss with the individual how they wish to handle the transition. The following should be taken into consideration and agreed by both parties:

- a) The expected timescale for any medical procedures (if to be undertaken) and any time off required for treatment. Some individuals may be planning a medical intervention and others may prefer a transition that does not involve any medical intervention or surgery. Time off for medical appointments is addressed in the Trust's Special Leave Policy and Sickness and Attendance Management Policy.
- b) The expected point at which the change of name and personal details should occur.
- c) Who will be informed of the change, i.e. colleagues, managers etc., and how the employee wishes to inform them.
- d) Agreeing a point at which the individual will present in the workplace as their identified gender, and agreeing

use of appropriate gender specific facilities e.g. toilets/changing facilities and uniform.

- e) Organising the required changes within Trust systems such as new e-mail address, Trust identification, Electronic Staff Records and payroll.

- 3.2.6 The law recognises that someone under medical supervision who is transitioning may require substantial periods of time off work to undergo medical procedures. A Trans person under medical supervision who has time off work relating to their transition has the right to be treated in the same way as someone who is absent from work for reasons of sickness or injury.
- 3.2.7 The matter should be dealt with sensitively and the involvement of those who need to know within their team(s) must be considered with the staff member's consent and approval.
- 3.2.8 The staff member should be treated as their preferred gender in the transition period. This will include wearing the appropriate uniform and using the preferred gender's facilities i.e. toilets and changing areas.
- 3.2.9 All current personnel records should be updated at the start of the transition process. At the start of the transition process a new personnel file will be created to ensure confidentiality. This will refer to the staff member as their preferred gender and carry over any outstanding HR matters, for example; disciplinary warnings/ sickness management making sure to refer to the staff member as their preferred gender. The old personnel file will not be destroyed or amended but access to this will be restricted to the Head of Human Resources and appropriate Head of Service. Where the Trust has to keep evidence of professional status or qualifications, it should be discussed with the member of staff how this information will be retained so as not to compromise or breach disclosure of protected information.
- 3.2.10 However if the member of staff has obtained a gender recognition certificate, the personal file must be amended so that all historical employment records reflect the recognised identity. Refer to scenario 12.
- 3.2.11 The member of staff and line manager must also ensure that all references such as telephone directories, email address and employment details reflect the gender of which the member of staff identifies.

- 3.2.12 If giving a reference, the reference must be in the name which will be used in the new job and must not disclose a former name. It may sometimes be necessary for a Trans person to disclose a previous identity in order for references from past employers to be obtained. In these cases, strict confidentiality and respect for dignity must be applied.
- 3.2.13 Discrimination from staff will not be tolerated. In the case of staff being discriminatory, the manager must use the relevant policies/procedures to deal with the situation. If the manager is discriminatory towards the staff member, this would be dealt with via the appropriate policy e.g. Disciplinary Policy and Procedure. This applies even if the individual does not hear what is being said about them as this breeds a culture of prejudice and disrespect.
- 3.2.14 If other patients or the public are discriminatory, they must be reminded that this behaviour will not be tolerated by the Trust. The Trust has a duty under the Equality Act 2010 to foster good relations between individuals who have protected characteristics and those who do not. If the discrimination persists the patient/member of public must be informed that they may be asked to leave the premises. Please refer to the Trust Withholding Treatment Procedure.

3.3 **Support Mechanisms**

- 3.3.1 The list below shows some of the options available to individuals who wish to seek support within the organisation during a gender transition period:
- a) **Line Manager** – the line manager will be responsible for supporting the member of staff including putting in place practical changes that need to be made to an individual's post or personal records, and to support positive working relationships between the individual and wider team members if relevant
 - b) **Human Resources** – an appointed advisor from within the Human Resources department will be identified at an early stage to offer advice and support.
 - c) **Occupational Health** – a referral to occupational health may be considered for additional support and advice concerning any counselling needs or regarding the medical process of the transition. Managers may also need advice regarding the needs of the individual and how to support changes that may need to be made within the team or working environment.
 - d) **Staff Support** – the Staff Support Service (Trust Counsellors) offers confidential support to all staff who are employed by the Trust. Their services offer a

chance for staff to talk through issues with a counsellor. This service is provided to help staff with both personal and work issues.

- e) **LGBT Staff Network** – The LGBT staff network offers a safe place to seek confidential advice and support from staff peers and can be utilised by staff who are transitioning.
- f) **Union Support** – Union Members may find it useful to contact their Unions for advice and support.

3.3.2 The following is a list of some external organisations that can offer support and advice on gender transition issues.

- a) Gender Trust - <http://www.gendertrust.org.uk/>
- b) Press for Change - www.pfc.org.uk
- c) www.transgenderzone.com
- d) ACAS - www.acas.co.uk – best practice advice for employers
- e) Equality and Human Rights Commission - www.equalityhumanrights.com
- f) Gender Identity Research and Education Society - www.gires.org.uk
- g) Stonewall - <http://www.stonewall.org.uk/>
- h) Birmingham LGBT - <https://blgbt.org/>

4. References/Bibliography

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<http://www.gires.org.uk/assets/DOH-Assets/pdf/doh-trans-practical-guide.pdf>
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Equality and Human Rights Commission (2009) **Provision of goods, facilities and services to Trans people. Guidance for public authorities in meeting your equality duties and human rights obligations.**

http://www.ilgaeurope.org/sites/default/files/provision_of_goods_facilities_and_services_to_trans_people_-_equality_and_human_rights_commission.pdf
[Accessed 09.12.16]

Equality Act 2010

<http://www.legislation.gov.uk/ukpga/2010/15/contents>
[Accessed 09.12.16]

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[Accessed 27.01.17]

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<https://uktrans.info/attachments/article/157/amcechaasd.pdf>
[Accessed 09.12.16]

NHS Choices
<http://www.nhs.uk/Livewell/Transhealth/Pages/Transhealthhome.aspx>
[Accessed 09.12.16]

Royal College of Nursing (2016) Fair care for Trans patients. An RCN Guide for nursing and healthcare professionals. RCN, London
<https://www.rcn.org.uk/professional-development/publications/pub-005575>
[Accessed 13.12.16]

The Gender Trust
<http://gendertrust.org.uk/directory/support-organisations>
[Accessed 09.12.16]

UK intersex Association
<http://www.ukia.co.uk/>
[Accessed 09.12.16]

Unison (2016) **Transgender workers' rights**
<https://www.unison.org.uk/content/uploads/2015/05/TowebTransgender-workers-rights.pdf>
[Accessed 03.02.17]

Unison (2013) **It's just good care. A guide for health staff caring for people who are Trans**
<https://www.unison.org.uk/news/press-release/2016/01/unison-welcomes-transgender-equality-report/>
[Accessed 03.02.17]

5. **Associated Policy and Procedural Documentation**

Policy for supporting individuals who are transgender
Disciplinary Policy
Disciplinary Procedure
Equality and Diversity in Employment Policy
Information Security Access Control Policy
I.T. Acceptable Use Policy
Prevention of Bullying and Harassment at Work Policy

Prevention of Bullying and Harassment at Work Procedure
Procedure for the Use of Chaperones
Recruitment and Selection Policy
Recruitment and Selection Procedure
Withholding Treatment Procedure

Appendix A:**Abbreviations and definitions**

AFAB/AMAB	Assigned female/male at birth.
Cisgender	Someone who identifies with the sex and gender assigned at birth.
Direct Discrimination	Where someone is treated less favourably because of a protected characteristic.
Discrimination by Association	The direct discrimination of someone because they associate with someone with a protected characteristic.
Discrimination by Perception	Direct discrimination where an individual is discriminated against because someone thinks they have a protected characteristic. It applies regardless of whether the person has the protected characteristic or not.
Dyadic	Someone who does not present with an intersex condition.
Gender dysphoria	NHS Choices (2016) defines gender dysphoria as a condition where a person experiences discomfort or distress because there is a mismatch between their biological sex and gender identity.
Gender reassignment	The process of transitioning from one gender to another. To undergo gender reassignment usually means to undergo some sort of medical intervention, but it can also mean changing names, pronouns, dressing differently and living in their self-identified gender. Gender reassignment is a characteristic that is protected by the Equality Act 2010.
Gender recognition Certificate	This certificate enables the individual to apply for a birth certificate.
Indirect Discrimination	Where there is a rule, condition or policy that applies to everyone but disadvantages a particular protected characteristic.
Harassment	Unwanted conduct related to a protected characteristic which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual.
Non-gendered	A person who does not identify with any gender.
Non-binary	A gender identity that is neither exclusively masculine nor feminine. Non-binary is a spectrum of gender identities that are not exclusively masculine or feminine—identities that are outside the gender binary. Non-binary identities can fall under the transgender umbrella, since many non-binary people

	identify with a gender that is different from their assigned sex
Positive Action	Where an employer can take steps to encourage people from groups with different needs or with a past track record of disadvantage or low participation to apply for jobs.
Protected Characteristics Equality Act 2010	<ul style="list-style-type: none"> • Age • Disability • Gender Reassignment • Marriage and Civil Partnership • Pregnancy and Maternity • Race • Religion or Belief • Sex • Sexual Orientation
The Equality Delivery System (EDS)	A tool kit to help National Health Service (NHS) organisations improve the services they provide for their local communities, consider health inequalities in their locality and provide better working environments, free of discrimination, for those who work in the NHS. The purpose of the EDS is to drive up equality performance and embed it into mainstream NHS business.
Transgender ('Trans')	<p>Transgender is an umbrella terms used to cover numerous types of gender identity including non-binary to describe people whose gender is not the same as, or does not sit comfortably with, the sex that they were assigned at birth.</p> <p>The term "Trans" is the preferred term used by transgender people. It recognises other gender identities such non-binary, gender fluid and non-gendered where their gender identity may not fit neatly into societal norms regarding gender, for example, they may feel they are not totally one gender or the other; they may not identify with the assigned birth gender or they may not identify with any gender at all.</p>
Transition	A person's process of developing and assuming a gender expression to match their gender identity. Transition can include: coming out to one's family, friends, and/or co-workers; changing one's name and/or sex on legal documents; hormone therapy; and possibly (though not always) some form of gender confirmation surgery.
Victimisation	Where someone is treated badly because they have either made or supported a complaint under the Equality Act 2010.

Appendix B: Gender Neutral / Gender Inclusive Pronouns

A gender neutral or gender inclusive pronoun is a pronoun which does not associate a gender with the individual who is being discussed.

Some languages, such as English, do not have a gender neutral or third gender pronoun available, and this has been criticised, since in many instances, writers, speakers, etc. use “he/his” when referring to a generic individual in the third person. In addition, the dichotomy of “he and she” in English does not leave room for other gender identities. This can be a source of frustration to the Transgender and gender queer communities.

To misgender is to refer to (someone, especially a Transgender person) using a word, especially a pronoun or form of address, that does not correctly reflect the gender with which they identify.

People who are limited by languages which do not include gender neutral pronouns have attempted to create them, in the interest of greater equality. Here are some examples

HE/SHE	HIM/HER	HIS/HER	HIS/HERS	HIMSELF/HERSELF
zie	zim	zir	zis	zieself
sie	sie	hir	hirs	hirself
ey	em	eir	eirs	eirself
ve	ver	vis	vers	verself
tey	ter	tem	ters	terself
e	em	eir	eirs	emself

Taken from: Lesbian, Gay, Bisexual, Transgender Resource Centre
<https://uwm.edu/lgbtrc/support/gender-pronouns/>
[Accessed 14.4.17]

Appendix C: Managers Guide for Supporting Transgender Individuals¹

This guidance is designed as a resource for managers to support someone who; is considering transitioning to their preferred gender, is in the process of transitioning, or has transitioned.

1. The Process of Transition – Summary

The below provides an overview of a typical transition. Each individual's situation will vary depending on a range of factors, including whether or not a person opts for medical procedures.

- A person identifies that their physical gender is not their gender at birth.
- The person informs their manager that they want to transition to their preferred gender and will commence lifestyle changes such as, dressing as their preferred gender. They may also commence hormone therapy
- At the person's request, the Trust updates its records to reflect any name change and the gender they identify as.
- A new staff file is created and any documents revealing their former name and gender that must be kept (for example, pension records) are marked 'confidential' and only accessible by the relevant person such as Head of HR, Head of Services.
- After a period of living as their preferred gender the person may choose to undergo surgery. A person does not have to undergo surgery in order to transition; this is their individual choice and does not need to be disclosed.
- After two years of living in their chosen gender, whether or not they have undergone surgery, the person can apply for a gender recognition certificate if they choose to.
- If the person chooses to gain a gender recognition certificate they will be issued with a new birth certificate. The person is now legally recognised in their chosen gender – all documents and references that have not already been changed must now be changed. Please note the Trust does not require a gender recognition certificate in order to change a person's identity and gender on the Trust systems.
- If the person is a member of the NHS pension scheme, they must send their new birth certificate to the appropriate person to ensure their gender is changed on pension records.

2. Use of Language

The following points should be followed for people who are transitioning:

- Once a Trans person has made known their chosen name, this name should be used in all circumstances, rather than their birth name. It is never appropriate to put quotation marks around either the Trans person's chosen name or the pronoun that reflects their gender identity.
- A person who identifies as a certain gender, whether or not they have taken hormones or had surgery, should be referred to using the pronoun (he or she) appropriate for that gender, or a gender-neutral pronoun if they have expressed that as a preference. For example, if the person wears a dress and uses a

¹ <https://www.ncl.ac.uk/diversity/assets/documents/trans-guidance-staff>

woman's name, the feminine pronoun is appropriate. If you are not sure what the correct pronoun is, ask the person what they prefer.

- It is not appropriate to use the terms 'sex change' or 'pre-/post-operative'. These imply that the process of transition must involve some form of surgery, which may not necessarily be the case.

3. Support for Staff Transitioning

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:

- Line Manager** – the line manager will be responsible for supporting the member of staff including putting in place practical changes that need to be made to an individual's post or personal records, and to support positive working relationships between the individual and wider team members if relevant
- Human Resources** – an appointed advisor from within the Human Resources department will be identified at an early stage to offer advice and support.
- Occupational Health** – a referral to occupational health may be considered for additional support and advice concerning any counselling needs or regarding the medical process of the transition. Managers may also need advice regarding the needs of the individual and how to support changes that may need to be made within the team or working environment.
- Staff Support** (or CiC) - The Staff Support Service offers support to all staff who are employed by the Trust. These services offer a chance for staff to talk through issues with a counsellor. This service is provided to help staff with both personal and work issues.
- LGBT Staff Network** – The LGBT staff network offers a safe place to seek confidential advice and support from staff peers and can be utilised by staff who are transitioning.
- Union Support** – Union Members may find it useful to contact their Unions for advice and support.

4. Planning the Transition at Work

When a person starts to present in their preferred gender it is necessary to plan every stage to avoid any contradictory information.

The first meeting

For a member of staff this will normally be with their immediate manager or the person to whom they have informed of their decision to transition. The member of staff may be accompanied at such a meeting by a colleague, Union Representative or friend to provide support.

Informing colleagues

It is appropriate to discuss how colleagues will be informed. The Trans person may want to do this themselves or might want it done for them. If this is the case, it is important that the Trans person still has some control over what people are told and the language used.

Planning

It will be necessary to agree an action plan, including timescales, to ensure that appropriate steps are taken during the member of staff's transition. The action plan should be confidential and discussion should take place to agree where copies are kept and who should have access to them.

In rare cases, there may be the possibility of media intrusion, particularly if the person is working in a high-profile role. If it is anticipated that this may happen, the Communications team must be informed in order to prepare a media strategy to respond to enquiries about an individual. Any such strategy should be developed with the individual concerned. To protect their identity, their name and post should not be revealed.

The Action Plan

The action plan and timescales will need to be reviewed periodically with the member of staff concerned. The action plan should cover:

- What time off the member of staff might need for medical appointments or procedures and/or the possible side effects of medication. Absence should be treated the same as anyone who is absent for reasons of sickness or injury.
- The date when the person intends to present as the gender they identify as, which may include the expected point for a name change, personal details and gender. It will include the steps needed to prepare for that point and what amendments are required to records and systems.
- When to inform their team and whether the member of staff wishes to inform colleagues in person or would prefer this to be done for them. For example an email could be sent to those who need to know and/or those who the individual would like to inform if this is the mutually chosen form of communication.
- What emotional support can be put into place for the member of staff if they feel that they require it e.g. counselling, support from Occupational Health
- Name change, ID and staff records

In the early stages of Transition, a Trans person may not permanently present in their preferred gender, as they may not feel able to until, for example, hormone therapy starts to alter their body. Full transition may not be instantaneous, so it may be necessary to update photographic identification throughout this period.

The following cards/name badges will need to be changed:

- Trust ID Card
- Email address
- NHS Smart Card
- Document changes
- Trust HR records – ESR, personal files etc.
- R-Directory records (email, telephone, location, job title)
- Local personnel records
- Staff lists / contacts lists, etc.

Informing relevant people

If appropriate and with the agreement of the member of staff the following people may need to be informed:

- Colleagues within their own department/service
- Staff within other departments/services with whom they work
- Occupational Health
- Human Resources

5. Managing the Reactions of Colleagues and Service Users

An important part of the action plan is the communication about the member of staff transitioning to colleagues and other people they work with. As people transition, the process itself may present challenges for other staff and students who have fixed notions of gender. A member of staff who is transitioning may face a broad range of challenges.

The Trans person may want to tell their colleagues about their impending transition individually. However, in agreement with the person, it may be useful to arrange a meeting with their colleagues. The individual should be free to choose whether they make an announcement themselves, or whether it is made for them by a chosen representative. It is important that senior members of staff within the individuals department are supportive.

There should be an opportunity for other members of staff or students to ask questions, either of the person hosting the meeting or, if they are comfortable, the person concerned. Trans Awareness training for colleagues may be helpful and can be provided by the Inclusion Team.

In the event discrimination occurs from staff at any point it will not be tolerated. In the case of staff being discriminatory, the manager must use the relevant policies/procedures to deal with the situation. If the manager is discriminatory towards the staff member, this would be dealt with via the appropriate policy e.g. Disciplinary Policy and Procedure. This applies even if the individual does not hear what is being said about them as this breeds a culture of prejudice and disrespect.

6. Practical Issues

Confidentiality

Confidentiality is crucial. In specified circumstances, the Gender Recognition Act prohibits disclosure of the fact that someone has applied for a gender recognition certificate or disclosure of someone's gender before the acquisition of a GRC. Such disclosure constitutes a criminal offence liable to a fine.

Single-sex uniforms/facilities/toilets

A Trans person should have access to the uniform according to the gender that they identify as. They should also have access to gender specific areas – such as changing rooms and toilets – according to the gender they identify as. This may mean that a person changes the facilities they use at the point when they start to live as their identified gender. It is not acceptable to restrict a Trans person to using disabled toilets or other unisex facilities.

Records

No records should be changed without the permission of the staff member concerned. If an individual discloses their status as a Trans person, or gives notification of their intention to transition during their employment, a date will need to be agreed with them from which their gender is changed on all personnel records and public references, such as ID passes, contact details, email addresses etc.

It is important to ensure a Trans person's file reflects their current name and gender. Any material that needs to be kept that is related to the person's Trans status, such as records of absence for medical assistance, birth certificate and documentation of name change, should be kept strictly confidential and only accessed by the approved person such as Head of HR and Head of Services.

When a Trans person receives a gender recognition certificate, they have the legal right to request that all references to their former name and gender are removed from old records to ensure their former identity is not revealed. For example, a person's old birth certificate will need to be replaced with their new one; if the person has changed their name, their original offer letter will need to be replaced with an offer letter in their new name. Nothing should remain on the file that would disclose to a third person that a change has occurred. In order for these changes to take place, it may be necessary to discuss with others in the Trust the fact that a person is transitioning. However, it is essential that the individual grants permission before their status is discussed with others. Please note the Trust does not require a gender recognition certificate in order to make the above changes.

References

References for current or former members of staff who have transitioned must make no reference to the person's former names or gender, and must use the appropriate pronoun. Failure to do so without the individual's consent would be a breach of the Data Protection and the Gender Recognition Acts. Should the Trust receive a reference for someone who has previously transitioned, which refers to them by a previous name, should treat that information as confidential.

7. Discrimination and Harassment

Bullying, harassment and discrimination are unlawful and will not be tolerated. Our policies protect the rights of Trans people to dignity at work. To "out" someone without their permission is a form of harassment and may also be a criminal offence.

Examples of unlawful direct discrimination:

- Refusing to support a member of staff who is Trans
- Verbally or physically threatening a Trans person or spreading malicious gossip about them
- Refusing to associate with or ignoring someone because they are a Trans person
- Refusing to address the person in their acquired gender or use their new name
- The sexual harassment of a Trans person
- Revealing the Trans status of a person to others by disclosing information to individuals or groups – in other words “outing” someone
- Passing judgement on how convincing a Trans person is in their acquired gender
- Refusing to acknowledge the rights of a Trans person and failing to acknowledge that a transition has occurred

Steps that can be taken to prevent harassment are:

- Creating effective and well communicated policies to promote gender equality that explicitly cover gender identity
- Monitoring policies and their impact regularly
- Developing clear procedures for investigating complaints
- Training staff involved in investigating complaints

Adapted from: Transgender Guidance for Managers and Staff; Newcastle University

<https://www.ncl.ac.uk/diversity/assets/documents/trans-guidance-staff>

[Accessed 15.6.18]

Appendix D: Scenarios

- 1. A colleague you know quite well confides in you that they are Transgender and are about to start living in their new gender, but are not sure how to go about ‘coming out’ at work?**

Steps to take – advise the colleague to speak to their line manager in order to put the recommendations in Appendix C into action. Also advise the colleague of the support available within the Trust such as the LGBT+ staff network, inclusion team, HR and the faith centre. The Trust has a clear policy designed to support staff who transition at work.

- 2. A patient asks you if your colleague is a man or a woman. Your colleague, Lewis, is a Trans man who began transitioning about six months ago and now lives permanently as a man.**

Steps to take – your response would be “a man”, and you would be mindful not to “out” Lewis as a Trans man as to do so could have serious implications including bullying and harassment in the short term and a potential criminal offence in the long term.

- 3. Rachel, a Trans woman, has been admitted to the hospital late at night and needs to be transferred to a ward.**

Steps to take – you would treat the patient as the gender they identify as and therefore in this instance Rachel would be admitted to a female ward. This should be accompanied by a conversation with Rachel as to ascertain if she would prefer to be in a side room or female bay, being mindful that side room allocation is dependent on clinical need and is not a default position for Trans patients.

- 4. Rachel, a Trans woman, was been admitted to the hospital late last night and sent to a female ward. This morning a patient on that ward has complained about there being a “man” on the ward.**

Steps to take – the person in charge of the ward will have an open dialogue with the patient who is complaining to understand the reasons behind their complaint. The person in charge would be required to explain to the complainant that as a Trust we have zero tolerance towards discrimination and that Rachel is female and therefore will be treated as such. Consideration should be given as to whether there is a need to offer support to Rachel as a result of the complaint.

- 5. You are at a meeting and are approached by a staff member who appears androgynous and because they have given their name as Alex you’re unable to clearly identify whether they are male or female.**

Steps to take – if a need arises to address Alex in the meeting you should refer to them by their name when possible or if a pronoun is needed every effort should be made to use gender neutral pronouns such as; “them” “they” and “their” so as not to misgender them. See appendix A

6. **A female colleague has transitioned and is now living as a man called John. Some staff are finding it difficult to adjust to using his new name and male pronouns.**

Steps to take – as set out in Appendix C, as part of the transition planning process will have included when to start referring to their colleague as John and with male pronouns. This will have clearly set out the expectation that staff will make every effort to refer to adhere to this. Although it is recognised that there may be small amount time needed to adjust to the change, where genuine mistakes may initially happen, should misgendering continue this could have serious implications including disciplinary on the grounds of harassment.

7. **Michelle a renal consultant in the Trust has been living as a woman for 6 months. Today a patient refused to be seen by “the tranny”. Michelle has made an official complaint to you as her manager.**

Steps to take – as her manager you will have an open dialogue with the patient who is complaining to understand the reasons behind their complaint. If it discovered that the complaint is based on the grounds of not wanting a Trans person to treat them because they are Trans, as the manager you will be required to explain to the complainant that as a Trust we have zero tolerance towards discrimination. Michelle is the consultant on duty that day and the Trust will not provide an alternative consultant based on the grounds of this complaint. As the manager you should meet with Michelle to discuss and offer support if needed.

8. **John is a nurse who has been living as a man for the last 12 months. Today you overheard a patient say to John, “I don’t want a Trans nurse looking after me”.**

Steps to take – there is an expectation that if a member of staff sees or hears any form of discrimination whether that be from patient, public or staff that they will respectfully challenge by reminding the person of the values of the Trust. This will be followed up making the person in charge of the ward aware of what has happened and ensuring that John has been offered the appropriate support if needed.

9. **Daniel is 22 and identifies as male. He has been admitted to a ward where his family often visit. Daniel’s family do not agree with his transition and refer to him as Dorothy, and ask nurses and doctors on the ward to do the same.**

Steps to take - The nurses ask Daniel how he would prefer to be referred to including pronouns. Daniel wishes to be called Daniel and use the pronoun he. This is how all staff on the ward address Daniel throughout his treatment.

10. **Ruth is 67 and identifies as a female. Ruth was admitted to A&E following an accident and is now being transferred to a ward by John who is Ruth’s nurse. When Ruth and John arrive on the ward John verbally hands over to the ward nurse Sarah. This is in a public place and John starts by saying, “Ruth is a 67 year old Trans woman.”**

Steps to take - Sarah stops John and asks him to accompany her to a private area. Sarah explains that Ruth is a 67 year old woman and that we should not use Trans when describing her. Furthermore her injuries from the accident do not relate to her Trans status and as such there is no reason to bring this up. Also because John said this in a public area where it could be overheard by several patients and staff this could result in “outing” Ruth. This could have serious consequences including Ruth being able to bring a civil claim against the Trust.

11. David transitioned one year ago and has now obtained a gender recognition certificate.

When David transitioned one year ago, he had a new personal file created which carried over any live HR matters, at that time HR was mindful to ensure any current HR letters/casework was amended to refer to David in his preferred gender. His historical letters/casework in David’s personnel file prior to transition was archived and access restricted to the head of HR and appropriate head of service. However now that David has obtained a gender recognition certificate there is a requirement for the Trust to amend all historical employment records to reflect David’s recognised gender.

12. Ruth transitioned several years ago and is currently receiving end of life care at home. Ruth can often be distracted, forgetful or disorientated. Questions have arisen about personal care and how to refer to Ruth when she is unclear or disorientated.

As with all of our Trans patients, the emphasis is on dignity and respect. Ruth transitioned several years ago and has been living as a woman, and should be treated and addressed as such