

## TRANSITIONING AT WORK POLICY

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### Responsible Officer

Version 1 (Frederico Maia), Version 1.1 (Rob Morris)
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## Transitioning at work

### 1. Scope

1.1 This policy applies to University staff. The policy and guidance applies to students who are also employees; any actions will relate to their employment and not their status as a student.

1.2 Transitioning is the term used to describe the personal, social or practical process someone may go through when they change from one gender expression to another, with or without medical intervention, also known as gender reassignment. Appendix 1 provides definitions and explanations of a number of terms used throughout this policy.

### 2. Aims

2.1 This policy aims to provide a framework for explaining how the University will support transgender (trans) people in the workplace when they transition.

2.2 The University aims to provide commitment, support and understanding to those individuals before, during and after transition. The University recognises that the period of transition can be very complex and difficult. The University aims to act in a supportive and sensitive way to ease any transition period.

2.3 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 choose to present themselves.

### 3. Policy

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
- university systems that support staff, such as IT and People Directorate

3.3 The University is committed to equality, diversity and inclusion where every person makes a unique contribution to grow and succeed.

3.4 The University will respect the confidentiality and status of all transgender staff and will not reveal sensitive information without the consent of the individual.

3.5 The University will not request a doctor's letter/OH referral as evidence of intent to transition.

#### **4. Support and confidentiality**

4.1 It is the responsibility of the staff member to organise a meeting with management to formally notify the University of their intention to transition. The member of staff has the option of being accompanied by a workplace colleague or a trade union representative at the meeting. A member of the People Directorate will also attend. An agreement on confidentiality will be developed between management and employee, which will be copied to both parties. This can be incorporated into a transition support plan (see 4.3).

4.2 During the meeting, discussions should explore how the employee anticipates their transition may impact upon their work, together with any dates that may have been set and what support may be available.

4.3 The employee and the manager should work together to develop a plan designed to support the employee at work during and after their transition. Where necessary, the People Directorate can assist with developing the plan (Appendix 2). The plan may cover but is not confined to:

- Confidentiality
- Preferred language or names
- Preferred means of communicating to colleagues/students about the transition and the timing
- Support arrangements

#### **5. Protection against bullying and harassment**

5.1 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.

5.2 Bullying and harassment on the grounds of gender expression, perceived gender identity, or gender transitioning, will be addressed under the Bullying and Harassment policy and if found, will be regarded as a disciplinary matter.

#### **6. Review**

6.1 The University will keep this policy and procedure under review with the recognised trade unions.

## Appendix 1

### Transgender Definitions and Terminology

Managers and staff may come across a range of terms related to transgender. 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 or 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.

Some people who do not wish to transition permanently to a new gender role, but who identify as genderqueer, gender variant or intersex may choose to live permanently with a more fluid gender identity.

**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.

**Transitioning** is the term used to describe the process someone goes through to change from one gender to another, with or without medical intervention.

The decision to transition is not something a person undertakes lightly and the support of managers and colleagues, staff and students is vital. In line with the Equality Challenge Unity, the University will not request a doctor's letter as evidence of intent to transition.

Every person is different: some people transition with ease and others do not; some people will transition to their preferred gender on a full-time basis and others will live in their preferred gender only part-time. Some people who change their gender expression part-time or from time-to-time, may regard this as variation of gender expression rather than transitioning.

The length of time it takes for a person to transition can differ vastly depending on whether they choose to undergo surgery, and, therefore, the length of time it takes to access specialist treatment under the NHS or privately.

Whatever the individual circumstances, it is important that the University is flexible, supportive, and makes it clear that discrimination and harassment against transgender people will not be tolerated.

## Transgender (Trans):

The definition of transgender is provided in the Equality Act definition. (See appendix 4)

**Gender Identity** describes the psychological identification of oneself, typically, as a boy/man or as a girl/woman, known as the 'binary' model. There is a presumption that this sense of identity will be consistent with the, respectively, male or female sex appearance. Where sex appearance and gender identity are congruent, the terms **cisgender** or **cis** apply. However, some people experience a gender identity that is somewhat, or completely, inconsistent with their sex appearance; or they may regard themselves as gender neutral, or **non-gender**, or as embracing aspects of both man and woman and, possibly, falling on a spectrum between the two.

People have the right to self-identify, and many people reject the whole idea of binary tick-boxes, and describe themselves in **non-binary**, more wide-ranging, open terms such as **pan-gender, poly-gender, third gender, gender queer, neutrois** and so on. Pronouns he/she, his/hers, may be replaced with more neutral pronouns such as: they, per, zie or fey; and the title Mx may be preferred to Mr, Mrs, Miss or Ms. The University supports the use of whichever term is preferred by the member of staff.

**Gender role** is the social role associated with a gender. This is the expectation of society about how a person should act based on their gender and gender expression.

**Gender expression/presentation** is how a person demonstrates their gender to others. This is distinct from both gender identity and gender role. When a person transitions they are changing their gender expression and presentation to more closely match their gender identity.

**Sex** refers to the male/female physical development. In an infant, the sex is judged entirely on the genital appearance at birth, but internal reproductive organs, skeletal characteristics and musculature, and the brain, are all sex differentiated.

**Gender Dysphoria** is the clinical diagnosis for someone who doesn't feel comfortable with the gender they were assigned at birth. Transgender people may reject the idea that gender dysphoria is a pre-requisite for being transgender and it shouldn't be assumed that everyone who wishes to transition has experience or is experiencing gender dysphoria.

## Appendix 2 - Developing a Support Plan

### Guidance for managers

This Plan outlines the actions required and the University's commitment to supporting the individual at all stages during their transition. Flexibility on initial agreements must be considered at all times and the plan may be changed as appropriate, as requested by the employee.

#### 1. General rules

- There is no 'right' or 'wrong' way to transition and dignity and respect should be considered and maintained at all times
- The plan should avoid inclusion of minute details of medical interventions and physiology terms or making assumptions
- The action plan should be based on the impacts of transition at work and not the person's transition in general

#### 2. First meeting with the manager to discuss privacy issues

When the transgender member of staff arranges to meet with management they should be advised that they have the option of being accompanied by their trade union representative or a workplace colleague at meetings where transitioning is discussed. The People Directorate will normally be invited to attend the meetings. All participants in the meetings must keep these discussions in strict confidence.

Applicants or staff are not obliged to inform the University about their transgender history as a condition of employment or promotion. If a person transitioned before joining the University, no information about this should be passed on to others without their permission. Many transgender people wish to keep their transgender background private, while others are willing to discuss it openly. Always ask the person concerned.

#### 3. Informing others

It is not necessary or appropriate to inform the entire workforce. A case by case decision on the extent of the disclosure of this information should be discussed and agreed with the transgender member of staff. Consideration should be given to current colleagues, external clients or students that the member of staff is currently working with. Levels of disclosure may vary based upon the extent to which the individual has face-to-face contact with co-workers, students and clients.

The manager and the People Directorate are responsible for ensuring that the process of informing others is carried out in an appropriate and respectful manner. In some circumstances the member of staff may wish to disclose these matters personally to some or all of their contacts. The wishes of the transgender member of staff are paramount in this regard. If the member of staff wishes to disclose matters personally to any of their contacts, the University will need to know when this is

going to happen, and what kind of information will be given to work colleagues or student, so that the process can be supported.

#### **4. Name and title change - privacy and confidentiality**

If a transgender member of staff wishes to change their name, the University and the member of staff will need to agree how and when the name-change is to take place. An informal name change can occur without any legal process upon request by the member of staff. A signed statement will suffice.

Statutory legislation governs particular employment records, such as pay slips, HMRC data and pensions. This legislation must be complied with before any name change can be made to University records of this nature.

University records will be altered to reflect any change to names or pronouns. However, in some cases it may be necessary to keep records relating to the sex that was registered on the individual's birth certificate, for instance, for insurance purposes. These must be treated in strict confidence.

The changes to the individual's records are in line with the requirements of data protection legislation. Extra caution is needed when information arising from data processing could reveal a person's transgender history. The People Directorate can advise on this issue.

#### **5. Storage of protected information**

Hard copies of any old documents that cannot be altered or replaced must be stored securely. Any records held by line management should be forwarded to the People Directorate. All records of the individual's personal life and medical history must be stored in line with the with the requirements of data protection legislation. See appendix 4.

#### **6. The role of Occupational Health**

The role of Occupational Health (OH) is to advise the University on fitness for work issues as well as provide appropriate advice on issues that may impact on an individual's ability to carry out the full scope of the role.

Occupational Health cannot seek to replace the specialist medical advice, assessment and support required by individuals who are considering gender reassignment.

Managers may seek Occupational Health advice on the impacts of surgery or medical treatment that are likely to affect the health and wellbeing at work of a member of staff undergoing gender reassignment. Possible considerations include:

- Emotional and physical wellbeing
- Temporary workplace adjustments

- Phased returns to work

Transgender staff may request a job change during or after transitioning. If they so wish the member of staff can ask for their name to be placed on the University's redeployment register.

A very small number of occupations may involve an Occupational Requirement, i.e. where the work to be performed should only be done by a person of one specific sex. If the transgender member of staff occupies such a role, the University will assist them to find suitable alternative employment by putting their name on the redeployment register.

## **7. Time off for medical treatment**

Time off for treatment associated with gender reassignment is specifically protected under the Equality Act 2010. It is good practice to discuss in advance the time away from work that an individual will need.

Time off for medical and other health related appointments is available. The Managing Attendance and Wellbeing policy contains further details.

### Appendix 3 - Transitioning at Work Action Plan

The University will strive to support the member of staff at all stages. Flexibility will need to be exercised on initial agreements. This template is available as guidance and can be adjusted as appropriate.

Employee Current Name:	Manager:
People Directorate contact:	Date:

Support Areas	Timescales	Action	Completion
Would the transgender staff member like to continue in their current role or be considered for redeployment or another arrangement, where possible?			
Appointment with doctor			
Start of real life experience			
What will be communicated to the staff member's team/department and when			
Decide upon timing for access to single sex changing rooms and toilets identified			
Start of hormone therapy and/or medical procedures			
<ul style="list-style-type: none"> <li>• Any change of name/personal details e.g.</li> <li>• Title</li> <li>• Known-as name change</li> <li>• Legal name change</li> </ul>			
Change of gender			
Amendments to records and systems.			
Whether the transgender staff member wants to inform relevant people (line manager / colleagues / students) in person or for this to be done on their behalf			

Training or briefing with colleagues, fellow students or service users. When this will occur and who will conduct this			
Update staff / Organisational Charts / database and Records			
New University ID Cards			
Access to Occupational Health advice and confidential counselling support			
Pension Changes			

## Appendix 4 - 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** is the governing legislation for collecting and processing personal data in the EU. Following the end of the Brexit transition period on 31 December 2020, most of the EU GDPR was retained in UK law by the European Union (Withdrawal) Act 2018. The retained GDPR is known as the "UK GDPR". The UK GDPR is supplemented by the **Data Protection Act 2018**.

**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.