

# Guidelines for Supporting Trans Staff and Patients



Equality, Diversity and Human Rights Department  
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## Summary

For people who are affected by gender variance and transitioning, the issues can be both complicated and sensitive. The guidelines aim to highlight good practice in supporting both trans staff and patients and those around them. In this aim it is hoped that poor experiences relating to dignity and discrimination can be reduced by promoting good practice and providing a level of education for the reader.

The guidelines support the Trust in delivering its obligations under the Equality Act 2010, Gender Recognition Act 2004, Human Rights Act 1998, Data Protection Act 1998 and NHS Constitution.

This document has been broken down into sections to help the reader locate relevant information.

- Section 1 – looks at a wide range of employment issues staff may face
- Section 2 and 3 – looks at how the Trust can support patients and provide trans inclusive services
- Section 4 – looks at the current pathways for addressing gender variance issues medically. (This is not a prescriptive list, as such trans people may undergo none, some or many of the procedures highlighted)
- Section 5 – looks at issues for those who identify as non-binary
- Section 6 – provides a useful glossary of terms and words.

The guidelines provide a wide range of suggestions and principles, which could be applied flexibly to cater for the needs of a given issue or circumstance. Remember the trans person is the expert of their own particular circumstances and issues, as such nothing should be done without consulting with them first.

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## Section 1: Supporting Staff

### 1. Introduction

The terms 'gender dysphoria', 'gender identity disorder' and 'gender variance' refer to a person whose gender identity does not match their appearance and/or anatomy. People with this medical condition who decide to adopt the opposite gender to the one assigned at birth are known as transsexual people. (However, this term is rather outdated and widely associated with medical issues and not accepted by a wide range of people). In this guidance the term 'trans' will be used, which encompasses a wide range of people with gender variance issues. Many trans people do not consider gender variance as a medical condition but as a natural variation. Therefore, the terms gender identity disorder, gender dysphoria and gender reassignment are terms that tend to be used by medical professionals rather than trans people themselves.

One of the main barriers trans people face at work is discrimination and lack of understanding of their needs. According to the Gender Identity Research and Education Society (GIREs), 'Gender Variance in the UK' (2009) report, it is estimated (at the time the report was written) that 20 per 100,000 in the general population have already sought medical treatment. This figure is expected to double every five years. However, trans communities are one of the most marginalised groups of all the protected characteristics (as defined by the Equality Act 2010, see glossary).

Living with gender variance can be extremely difficult, stressful and emotional. The Engendered Penalties: Transgender and Transsexual People's Experiences of Inequality and Discrimination Report (2007), highlights that 34% of trans people surveyed have attempted suicide (and 14% have attempted it more than once). Trans people who are able and feel empowered to seek medical intervention will not only have to deal with hormonal and physiological changes, but deep psychological issues as well, such as body image, self-esteem, potentially sexual orientation, etc.

In a recent study as many as 42% of people with gender variance issues would like to permanently transition, however they feel unable to do so in the work environment for fear of their employment status being threatened, leading to increased stress levels, and the individual being unlikely to reach their individual potential. Source - Engendered Penalties: Transgender and Transsexual People's Experiences of Inequality and Discrimination, Stephen Whittle, Lewis Turner and Maryam Al-Alami, February 2007

The purpose of this guidance is to assist the Trust in supporting its trans employees and patients. To ensure the working environment is free from discrimination and trans employees are able to begin/continue their transition journey to the fullest extent. It is also underpinned by the Equality, Diversity and Human Rights Policy. This document equally applies to those individuals who have intersex conditions, or identify as 'non-binary' i.e. they do not see

themselves as either male or female (see section 5). **This is guidance and is not a prescriptive document, and the suggestions can be altered to fit the personal circumstances of the individual.**

## 2. Summary of Legislative Framework

The basic legal framework makes it unlawful to discriminate against someone if they:

- intend to undergo gender reassignment, or
- are undergoing gender reassignment, or
- have at some time in the past undergone gender reassignment.

This ensures that the initial stage is covered by the legislation, when an individual indicates an intention to commence gender reassignment. It is not necessary for all three circumstances to apply.

Discrimination in this context, means treating a trans person less favourably than you treat (or would treat) another person who is not undergoing gender reassignment (or contemplating it etc.). Please see the Equality, Diversity and Human Rights Policy for further information.

It is also unlawful for an employer to instruct someone else to do something discriminatory – for instance, telling an employment agency not to hire a trans person. Pressure to discriminate is also unlawful – e.g. employees threatening not to work unless their employer dismisses a colleague who has decided to undergo gender reassignment.

### 2.1 Equality Act 2010 (EqA)

The EqA was enacted in October 2010, and aimed to simplify and harmonise protection offered to people from discrimination, harassment and victimisation (public sector organisations also have the duty to promote equality and good relations between all protected characteristics).

Protection from discrimination in the workplace and in the provision of goods, facilities and services is offered to people who intend to undergo, are undergoing or have undergone a process (or part of a process) to reassign that person's gender by changing psychological or other attributes of gender (Equality Act: Part 2, Chapter 1, Paragraph 7). The process described in the EqA is often known as a "transition". **There is no requirement for the person to be under medical supervision (as under previous legislation), and covers those who associate with trans people, and those who are perceived to be trans.**

However, people who may dress in the gender that is opposite to their birth gender, for reasons not relating to gender variance will not be protected by the EqA. Those who identify as non-binary may strictly speaking only be covered by the Act when the discrimination is by perception under current

legislation – this may change by widening the definition or protection to include non-binary people.

Trans people who qualify for protection from the EqA, should expect employers and co-workers:

- Not to discriminate against them;
- Not to harass or create a hostile environment by using transphobic language (whether or not this is in the presence of a trans person);
- Not to victimise a person who has made a complaint about a transphobic incident;
- Not to penalise a person who takes time off for treatment associated with gender reassignment;
- Not to compromise the privacy and dignity of trans people;
- To ensure that measures are in place to protect and assist a person who is undergoing transition.
- To respect and treat them as an individual i.e. not to assume that all trans people have the same needs, and to recognise that trans people have many different aspects to their character other than their gender identity.
- Colleagues should understand that protection from discrimination is not dependent on whether or not a trans employee has a Gender Recognition Certificate. Providing the employee meets the test highlighted in section 2 they are protected from discrimination, harassment and victimisation.

## **2.2 Gender Recognition Act 2004**

The Gender Recognition Act 2004 gives legal recognition (to those seeking resolution to their gender variance issues) in their acquired gender. There are a number of criteria which the trans person has to satisfy in order for the Gender Recognition Panel (a judicial body that comprises of lawyers and doctors) to consider their case:

- have or have had gender dysphoria, and
- have lived in the acquired gender for two years prior to the application, and
- intend to live permanently in the acquired gender.

Following a successful application, a trans person will acquire the rights and responsibilities of their acquired gender from the date of recognition for 'all purposes'. A Gender Recognition Certificate (GRC) will be issued, the birth certificate is automatically replaced, for those whose birth was in the UK.

Under these circumstances there are increased privacy requirements for documentation/records that reveal a previous gender status, and any person who has learned of this in their 'official capacity' and relays this information without prior consent/permission from the individual concerned will be conducting a criminal act which could be liable to prosecution and a substantial fine. This applies to areas concerning workforce and service delivery.

Under the Marriage (Same Sex Couples) Act 2013, there are specific conditions that need to be met for the provision of a 'full' GRC if the applicant is in a legally recognised same-sex relationship.

The lack of a GRC must not be used to disadvantage a trans person. Asking to see a GRC is nearly always inappropriate; it may be regarded as harassment, and negates one of its central purposes, that is, to provide privacy. Nor should a birth certificate be required. Identification of patients and staff can usually be provided by passports or driving licences.

A GRC is not needed in order to change one's name, pronouns, or gender of presentation at work/or accessing a public service. Trans people will have spent an extended period of time living in their affirmed gender before being granted their GRC. Transitioning and continuing to work in their new gender is, for many trans people, an essential part of their transition process.

### **2.3 Human Rights Act 1998**

The principles of the Human Rights Act are woven into the above legislation, and the Act requires trans people to be treated with dignity and respect with regard to their need for privacy and all other principles within the Act.

### **2.4 Data Protection Act 1998**

Under the Data Protection Act, a person's gender identity and issues relating to gender reassignment would constitute 'sensitive personal data' for the purposes of the legislation. It can only be processed for certain specified reasons set out in the Act.

Processing sensitive personal data must satisfy one or more of the following:

- The individual must give explicit consent to the processing.
- Data must be processed to comply with employment law.
- The processing is necessary to protect the vital interests of:
  - the individual (in a case where the individual's consent cannot be given or reasonably obtained), or
  - another person (in a case where the individual's consent has been unreasonably withheld).
- The processing is carried out by a not-for-profit organisation and does not involve disclosing personal data to a third party, unless the individual consents. Extra limitations apply to this condition.
- The individual has deliberately made the information public.

- The processing is necessary in relation to legal proceedings; for obtaining legal advice; or otherwise for establishing, exercising or defending legal rights.
- The processing is necessary for administering justice, or for exercising statutory or governmental functions.
- The processing is necessary for medical purposes, and is undertaken by a health professional or by someone who is subject to an equivalent duty of confidentiality.
- The processing is necessary for monitoring equality of opportunity, and is carried out with appropriate safeguards for the rights of individuals.

For more information, see guidance from the Information Commissioner's Office: <https://ico.org.uk/for-organisations/guide-to-data-protection/conditions-for-processing/>

## **2.5 Legal Obligations of Other Agencies**

### **2.5.1 Disclosure and Baring Service (DBS) Checks – formerly Criminal Records Bureau (CRB)**

The Disclosure and Baring Service provides a service called 'Disclosure'. By providing wider access to criminal record information, the DBS helps employers in the public, private and voluntary sectors identify candidates who may be unsuitable for certain work, especially in positions that involve contact with children or vulnerable people.

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.



Trans applicants wishing to take advantage of this separate procedure should contact the DBS for further details. Please look at their website:  
<https://www.gov.uk/government/organisations/disclosure-and-barring-service>

### 2.5.2 Recruitment Agencies

It is unlawful for a recruitment agency to discriminate against a trans person:

- in the terms of which it offers to provide any of its services, or
- by refusing or deliberately omitting to provide services, or
- in the way in which it provides any of services

Unless one of the exceptions under the Equality Act 2010 applies, such as a genuine occupational qualification (GOQ – see glossary and section on recruitment). This may in practice exclude trans applicants from apply for a post where a gender GOQ condition is imposed.

If the employment agency has been assured by the employer that a vacancy is covered by a GOQ and this turns out to be wrong, the agency has a defence if it can prove that:

- it acted in reliance on a statement by the employer that its action would not be lawful, and
- that it was reasonable for it to rely on the statement

It is a criminal offence punishable by a fine, to knowingly or recklessly make a statement that is generally false or misleading.

Employment agencies are not under any legal obligation to disclose information about the gender identity status of an individual, and agencies should not provide such information without the individual's prior consent. The question should only arise if there is a relevant GOQ relating to the particular job.

## 3. Memorandum of Understanding

Employers often act to address gender identity issues in their workplace when the occasion arises. Poor preparation increases the chances of managers and staff acting inappropriately, causing discomfort to the trans employee concerned. Fear of an inappropriate response may prevent people from transitioning which may, in turn, mean that their performance will be less than optimal.

One of the most important factors in facilitating the successful transition of an employee, who is undergoing a change of gender role, is to discuss thoroughly with the employee how to handle it. Both the employee and the manager will need to agree the proposed actions to ensure there is mutual understanding about what needs to take place. **Nothing must be done without the consent of the employee.**

If the manager has never supported a trans employee through transition, it would be helpful to develop an understanding that this is very carefully considered and much-needed medical treatment that is essential for the employee's health and wellbeing. It is never undertaken lightly by the employee experiencing it and medical decisions about treatment are only taken after careful and thorough prior assessment. Above all it is not a choice. By the time of transition, the employee's profound and persistent gender discomfort has become intolerable and living in a gender role that accords with their internal sense of their own gender identity has become an urgent necessity.

Managers, therefore, need to make it clear that in the event of an employee transitioning, measures are in place to facilitate this. It is suggested that an agreed 'Memorandum of Understanding' be drawn up in each case, covering a number of possible topics, outlined in section 3.1. The trans member of staff and the line manager (or other senior member of staff) should sign this document. The agreement does not represent a binding and unchangeable arrangement, but rather a commitment by the employer to engage with, and support the employee at all stages.

While the initial meetings and the drafting of the document can be undertaken by the staff member's line manager or support manager, a member of the People Directorate (HR) should be encouraged to take an active role in the discussions and to meet with the employee to review the details of the memorandum before it is signed. This must be done with the agreement of the employee. The trans member of staff may wish to have the assistance and support of a colleague or trades union representative during this process.

The implementation of the memorandum should be reviewed at least every three months, but should also be reassessed at each significant stage of the process and at any time upon request by the employee. The memorandum is a confidential document. There needs to be an agreement on where copies should be kept and who should have access. It is important that this confidential information is not shared in the workplace in an uncontrolled way.

### **3.1 Issues to be discussed**

Issues, which may be considered by the employee and the manager include:

- Whether the employee wishes to stay in the current post during or after gender reassignment or, if possible, would prefer to be redeployed (this would also include short term redeployment).
- Whether there are duties within the role that should not be undertaken at specific times within the process (for instance heavy physical work following surgery).
- What risks may arise for the employee in the workplace as a result of the transition, for instance in relationships with external parties or arising from media intrusion, and how they will be dealt with.

- Projected timescale, if known, of any medical and surgical procedures and the time off requirement for medical treatment, including a discussion about how absences will be recorded and monitored. Time off for treatments related to gender reassignment are specifically protected under the Equality Act 2010 and should be regarded as a short-term reasonable adjustment (not used in relation to any absence management process). However treatment and procedures that are purely cosmetic e.g. electrolysis should also be discussed as these types of procedures/treatments would normally be carried outside of working hours.
- The expected point or phase of change of name, personal details and social gender. Name change may occur without any legal process but, before documentation is changed, it is usual for a Statutory Declaration (made before a solicitor or in a Magistrates' Court) or a Deed Poll document to be obtained, and possibly a doctor's letter (if appropriate to the situation). NB. The requirements imposed for confirming identity should be equivalent to the requirements generally required for employees changing their name i.e. trans employees should not be put through a more burdensome process than what is typically required.
- Whether the employee wishes to inform management, colleagues and associates or would prefer this to be done by someone else who is agreed to be suitable.
- When the disclosure is to take place and the depth of the disclosure, so that appropriate support can be provided for the employee and for other staff.
- Whether training or briefing of colleagues will be necessary and at what point and by whom this will be carried out; advice in this regard should be taken from the People Directorate (HR) or the Equality, Diversity and Human Rights team.
- What amendments will be required to records and systems and the safeguards of their security.
- What the implications are for pensions and insurance.
- Whether a trans employee is adequately covered by existing policy on issues such as confidentiality, harassment and corporate insurance, and if not have these documents amended as a priority.
- Agreeing any dress code or uniform requirements.
- Agreeing the point at which the employee will commence using the gender appropriate facilities in the new gender role, for example toilets and changing areas. This should occur from the time when the employee transitions in their gender role at work.

- Liaison with any clients or external agencies in respect of any outstanding matters in which the trans employee is currently involved.
- Where DBS checks are required, following a change of name, a special procedure may be accessed (see section 2.5.1).
- How to deal with individuals (after education) who do not understand the situation, are unsympathetic or behave in discriminatory ways, this includes asking overly intrusive questions about the employee's trans status and medical treatments. This should be discussed in line with the Equality, Diversity and Human Rights Policy.

#### **4. Support Services within the Trust**

##### **Occupational Health**

Occupational Health will be available on request to offer advice on specific health related issues and fitness to work.

The Occupational Health service can provide staff with confidential support, counselling or psychotherapy for a range of issues including:

- Work related stress
- Work relational issues
- Employment difficulties
- Critical/traumatic events

## 5. Understanding the Treatment Timescales and Time off Work

This is a general guide only and it is paramount to take individual needs into account on every occasion.

Diagnosis of gender dysphoria may take a matter of months or a period of years. Preliminary diagnosis is followed by hormone therapy, and typically after about six months the individual's appearance begins to change. Trans people will often change their social gender around this stage, although not necessarily their gender role at work.

At some point the individual will want to start to live full time in their 'new' gender and their name and other records (such as their driving licence and passport) may be formally changed.

The individual is expected to live and work in their new gender role for a period of one year prior to any irreversible surgical intervention. This period is often referred to as 'social gender role transition' (previously known as 'real life experience').

If there are no delays (for example funding problems or waiting lists), the individual usually proceeds to one or more reassignment surgeries after one or two years of hormone therapy as a minimum, although some individuals never undergo surgery.

Some people may opt for early surgical procedures. The extent of these will vary according to the needs of the individual. A few procedures require less than two week's absence from work, while others may require a number of months. **It would be unlawful to dismiss an individual for reasons of past, current or impending gender reassignment treatment.**

It is good practice to discuss in advance the time away from work that an individual will need to undergo gender reassignment treatment at the earliest opportunity. When the individual is absent for treatment or surgery then normal sick pay arrangements should apply (refer to the Managing Sickness and Absence Policy and Procedure). The normal procedure for medical appointments should also apply, as well as flexibility to individuals who may need to take holiday or rearrange working hours in order to attend additional appointments (for instance, electrolysis treatment). It is important to remember that it may constitute unlawful discrimination if an individual is treated less favourably when undergoing gender reassignment treatment than others who are absent from work for other medical reasons.

Please see section 4 – Medically Addressing Gender Variance Issues for further information.

## **6. Relocation or Redeployment during Transition**

The employee may wish to be relocated or redeployed during the initial period if, for example, their working environment is stressful, perhaps because they have direct contact with the public.

Relocation/redeployment may not always be necessary or appropriate, however any decision should always be made in consultation with the employee. Some employees may prefer to stay within the environment in which they have made friends and where they feel supported.

## **7. Dress Code and Appearance**

It is good practice to allow enough flexibility in the dress code to accommodate the process of transition from one gender role to another. For example, in the transition from male to female, flexibility should be allowed over hair length and style, jewellery and make up. If the employee is working with the public, a temporary redeployment out of the public gaze may be appropriate, with the agreement of the employee concerned. Where necessary, a new uniform should be fitted and ready well in advance of the change of gender role.

## **8. Use of Single Sex Facilities**

Good practice indicates that facilities such as toilets and changing rooms should be accessed according to the full-time presentation of the employee in the new gender role. The line manager, (with the possible support of the People Directorate - HR), and the employee should agree the point at which the use of facilities such as changing rooms and toilets should change from one gender to another. In the case of *Croft v. Royal Mail Group PLC 2003*, the Court of Appeal held that an employee who was undergoing male to female gender reassignment had not been discriminated against on the grounds of sex (the appropriate 'strand' of equality at the time), when her employer refused to let her use the female toilet immediately and instead required her to use a gender-neutral disabled toilet as a temporary measure. In the Court of Appeal's view it was inherent in a situation involving the use of toilet facilities by employees undergoing gender reassignment, that there be a period during which an employer is entitled to make temporary separate arrangements for those undergoing transition.

Trans people are not to be regarded as disabled. Employers may consider changing the labelling on some facilities so that they are gender neutral. Greater privacy may be provided by having more cubicles, and by having partitions and doors that extend from floor to ceiling.

A person who has acquired a GRC must be treated for purposes as having the new gender status and may always use the toilets appropriate to their legal gender status.

## 9. Informing Colleagues

Following discussions between the manager and the employee, it should be established whether the employee wishes to inform colleagues about gender variance and the proposed transition. Many trans people wish to keep their trans status private, while others are willing to discuss it confidentially or openly. There is no need or obligation for an employee to disclose their trans status as a condition of employment nor is there any obligation on the employer to inform colleagues and the public that a member of staff is intending to undergo, is undergoing or has undergone gender reassignment. Such information is necessary only where the relationship, with a person who knows the individual prior to their change of status, is to continue. So, unless the individual requests otherwise, the details should only be shared with such a person.

It is usually good practice for the manager to take responsibility for informing those who need to know, though the known wishes of the employee concerned are of paramount importance in this regard. The employee concerned must be informed and consulted before any disclosure is made.

Any training should take place on two levels:

- General information about trans communities
- Specific information to enable people to understand the needs of the individual involved.

In some circumstances the employee may wish to disclose these matters personally to some or all of their contacts. If this is the case, the employer will need to know when the disclosure is to take place, and how much information will be disclosed in order to provide appropriate support to the members of staff involved.

Level of disclosure may vary depending on the size of the department and the extent to which the employee proposing to change gender role has face-to-face contact with co-workers.

Should the employee be harassed, bullied or discriminated against by Trust employees the Equality, Diversity and Human Rights Policy and Dignity at Work Policy and Procedure provide details on how complaints of this nature should be handled. Disciplinary action will be taken against Trust employees who engage in these types of behaviours.

The following example involves a trans man, but exactly the same approach could be used for a trans woman, with the pronouns and names reversed:

**Level one:** a trans man has a private interview with their senior management;

**Level two:** the senior manager calls a meeting of those colleagues who work closely with the trans man, and explains the situation and provides basic

information; the trans man joins the group for lunch and makes it clear that he is happy to talk about it and welcomes any questions;

**Level three:** an email written by the trans man is sent out to all other employees in the same building, below is an illustrative example, the contents of this may vary on the specific circumstances of the employee:

Dear Colleagues,

I am writing to you because I know that it would not be possible to speak to you all individually. I wanted to tell you my news personally, rather than leaving you to hear it via someone else. There are going to be some big changes in my life that I would like to share with you.

I have been seeing a specialist doctor for a while, who confirms what I have recognised for many years. I identify as a man, and I always have. Because I do not look like a man, I have lived with a feeling of great discomfort, which I have tried to ignore, repress or overcome. This uncomfortable experience is called gender dysphoria. Most of you will have heard of people in my situation being described as transgender or just trans.

I have reached a point where I cannot continue in my old gender role. I shall be away for three weeks and will return in September. From then on I will be living and working as a man. I am still the same person, and I shall continue to do the same job. In that respect nothing will change. My appearance and the way I dress will change, of course, and I will no longer be known as Susan but as Michael. Using new pronouns can take a while to get used to, but I am sure I can count on you all to refer to me as 'he'.

We have great values in our organisation; we celebrate diversity and we treat each other as equals, so I am confident that all of you will give me the support that I need through this new phase of my life.

Please feel free to come and ask me about anything that you do not understand, or would like to know. I don't mind answering questions, and if you have uncertainties, I would much rather you spoke to me directly about them.

Regards

S/Michael

It is never appropriate to inform colleagues, clients and the public that an employee has in the past undergone gender reassignment. This should be a private matter since gender reassignment will have no bearing on that person's ability to do their job.



## 10. Dealing with the Media

Given the sensitivity of gender reassignment, there is always the possibility of intrusion from the media. However, with recent changes in the law and wider public understanding of the subject, this has tended to be less common. The organisation should prepare a media strategy, indicating how to respond to enquiries regarding a trans employee. In the interest of confidentiality the name and specific post of the employee should not be revealed. If the identity of the employee becomes known to the media, the employee's risk assessment should be reviewed immediately. It may be necessary to protect the employee with additional control measures such as redeployment away from contact with members of the public. It may also be necessary to consider allowing the employee to take annual leave or unpaid leave to move from the present address if besieged by the media or otherwise harassed at home. However, these would be extreme circumstances. The wishes of the employee must be considered in any response given to the media.

### Example Press Release

Our organisation is proud of its employment policy and its commitment to equality and diversity among its employees. We support all our staff, we treat them with respect and have due regard for their privacy and wellbeing, regardless of their age, disability, gender, gender identity, marriage or civil partnership status, pregnancy/maternity, race/ethnicity, religion or belief, or sexual orientation.

## 11. Keeping Records

The manager should ensure that all documents, public references (such as telephone directories, prospectuses, web biographies) and employment details reflect the acquired gender of the employee. This will prevent any breach of confidentiality.

Where documents have been seen and copies taken at the point of starting employment then every effort should be made to replace those with equivalent documents in the new name and gender.

## 12. Privacy of Personal Records and References

The utmost discretion is needed when dealing with telephone calls. Staff working in offices where members of the public may make incoming calls, should be specially trained to understand the need for privacy and the importance of using correct pronouns.

The respective forms used for security checks and medical screening will seek information that will lead to identification of trans status. This information will remain 'confidential' and the disclosure of this information will be restricted to those personnel involved in these two procedures, who will be required to honour that confidentiality. Any subsequent paperwork that indicates the

individual's trans status (including qualifications) will not be accessible to other personnel.

Where it is reasonable and practical, it is good practice for employers to update their records to ensure that any references reflect current name, title and gender. In some cases it may be necessary to retain records relating to an employee's identity at birth for example pension or insurance purposes. Access to any records showing the change of name and other details associated with the individual's trans status such as records of absence for medical treatment should be restricted to staff who require such information to perform their specific duties.

These documents should be stored securely in a sealed envelope, separately from the files of other employees, rather than in a filing cabinet. Trans employees in employment may choose voluntarily to disclose at a secondary level, for example, answering an equal opportunities questionnaire, or asking for support from a line manager. However, this does not mean that the employee is comfortable with onward disclosure to others; the need for strict confidentiality should be assumed unless the employee gives permission for onward disclosure. **Breaches of confidentiality will be treated in the same serious manner as a disclosure of personal details of any other employee. Where an employee holds a Gender Recognition Certificate, this information is 'sensitive'. Those who obtain such information as part of their job – therefore, in an 'official capacity' – could be committing a criminal offence (under section 22 (prohibition of disclosure of information) of the Gender Recognition Act 2004) if they shared this information with anyone else, unless this is authorised by the trans individual concerned.**

### 12.1 Use of Pronouns

It is extremely important that people who are undergoing/have undergone transition are referred to by the name and gender (therefore pronouns) they identify with. This will help to reassure the trans member of staff that they are valued by the organisation and supported by their colleagues. If you are unsure what pronouns to use, ask.

Some trans people may prefer to use gender neutral pronouns such as 'ze' or 'they' as opposed to 'he' or 'she'. Again this must be respected.

Any members of staff that refuse to use the name, pronouns or gender deemed appropriate by the member of staff that is transitioning/transitioned, will be seen as acting in a harassing and/or discriminatory manner and may be subject to disciplinary procedures under the Dignity at Work Policy.

## 13. Health and Safety

Employers should ensure that ongoing Risk Assessments are carried out for trans employees.

## **14. Insurance Matters**

Employers registering staff for corporate insurance are advised to inform their underwriters if they know of a trans employee's status, since some insurers automatically invalidate a policy if a major fact such as gender reassignment is not disclosed. The employer should inform the employee before disclosing this information. If an employer is unaware that an employee has a reassigned gender, the obligation to disclose falls upon the employee, who could also be held liable in the event of an accident for which no valid insurance cover exists.

## **15. Pensions and Retirement**

Everyone born after April 1955 now receives state pensions at 65. But women born before 1950 can claim state pension at 60, and those born between 1950 and 1955 can claim it at a point between 60 and 65. For state pension purposes, trans people can only be regarded as the sex recorded at birth until they have obtained a new birth certificate under the provisions of the Gender Recognition Act 2004. Otherwise, those born prior to April 1955 can only claim state pension at the age appropriate to the sex on the original birth certificate – that is for trans women at age 65 and for trans men at 60. (Under recent case law, a trans woman is entitled to receive a state pension from the age of 60 without a GRC, if she reached that age before 4 April 2005 when the Gender Recognition Act came into force). It is the responsibility of the employer to take suitable steps to keep confidential the reason for the employee's apparent early or late retirement.

Trans members of staff who are in possession of a GRC and members of the NHS Pension Scheme, should contact NHS Pensions on 0845 421 4000, or look at their website: <http://www.nhsbsa.nhs.uk/pensions> for further advice. NHS Pensions can offer further information about the impact of gender reassignment could potentially have on their pension please also look at: <http://www.nhsbsa.nhs.uk/Pensions/Gender.aspx> for trans specific information.

## **16. Recruitment**

Careful consideration should be given as to the application of a Genuine Occupational Qualification (GOQ) relating to gender in recruitment adverts. The inappropriate application can leave some trans people illegible to apply for the post regardless of whether they have a GRC or not (at present there are specific exclusions within the EqA).

Advice should be sought from the People Directorate (HR) and/or Equality, Diversity and Human Rights department to ensure any potential application of a GOQ is both justifiable and proportionate. Failure to do so may result in a discrimination claim – it is not acceptable to apply a GOQ simply because it has historically been applied. Justification for each proposed application must be reviewed every time the post is advertised.

Interviewees may not necessarily want to disclose their gender identity status at interview, and it is not a question that should be asked.

If a GOQ has been applied (particularly around gender), the interviewer would be expected to ask **all** candidates if they can meet the requirements of the GOQ, this must also be recorded in the interview notes.

Please remember those who have a GRC have the **full legal status** of their affirmed gender.

## **17. Other Gender Variant and Transgender People**

The above guidelines deal with employer's duties to people who are proposing to undergo transition at work, are undergoing transition or have previously transitioned, rather than those who change their gender role on a part-time basis. However, as mentioned in the opening section, in certain circumstances, those believed to be or perceived as, undergoing gender reassignment, may be covered against harassment and discrimination. **In any case, it is good practice to provide equal treatment to all trans people, whether or not they intend to undergo full-time and permanent transition to a new gender role.**

## **18. Further Information, Advice and Training**

It is the duty of every member of staff to keep themselves updated with training around issues that affect trans communities. However additional support and advice can be sought from the following organisations:

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GIRES will help any employer or employee undertaking a transition at work. This includes providing training workshop for the staff involved in or affected by the transition process. Contact should be made with the charity via the addresses or telephone numbers given on their website (<http://www.gires.org.uk>)

## **19. Transphobia and Hate Crime**

Transphobia can be defined as the irrational fear, dislike or prejudice against transgender (trans) people. A hate crime is when transphobia is acted out against someone and it amounts to a criminal offence. Any form of discrimination and hate crime is not tolerated within the Trust, and there is a process for reporting such incidents. It is important that activity of this nature is reported, this will ensure that the incident/crime is investigated appropriately and the right level of support can be offered to the victim.

In situations where patients and staff members display transphobic behaviour to other staff, the situation will be treated seriously and dealt in line with the Equality, Diversity and Human Rights and Dignity at Work policies.

## **20. References**

House of Commons – Women and Equalities Committee, Transgender Equality - First Report of Session 2015/16, 14 January 2016

GIRES – Legal Protection and Good Practice for Gender Variant, Transsexual and Transgender People in the Workplace, October 2010

Women & Equality Unit – Gender Reassignment – A Guide for Employers, January 2005

Galop - Shining the Light, 10 Keys to Becoming a Trans Positive Organisation, 2011

Government Equality Office – The Recruitment and Retention of Transgender Staff (Guidance for Employers), November 2015

Stonewall Scotland and Scottish Transgender Alliance – Changing for the Better (2<sup>nd</sup> Edition 2012)

## **21. Acknowledgements**

The contents of these guidelines have been taken from all the documents that have been referenced.



## Section 2

### Considerations of Trans Communities in Service Provision

#### Hospitals – in General

Attitude of staff is not the only factor, but also knowledge of social and medical issues affecting trans patients across the board. It should also be noted that trans people do not just come into contact with health services for procedures relating to transitioning. They can be injured, suffer from illness and succumb to the effects of ageing like everyone else. Good care relies on staff knowing when a trans patient's gender identity history is relevant and when it is not, and treating patients in a respectful and dignified manner.

#### Specialist Clinics

Some clinics provide gender-specific or gender segregated services. An example of the former may be a clinic performing prostate examinations. Similarly clinics dealing in genito-urinary infections may have sessions for men and sessions for women, or separate entrances. It would be unacceptable to require a trans woman to use a waiting room for men in the former case, or for a trans man to share a female clinic waiting area in the latter case. If an examination needs to be conducted in specific room because it contains appropriate equipment, but which would not ordinarily be used for a person of that gender (for example, a trans man needing to be examined in a room ordinarily used for the examination of women), this should be clearly explained to the patient and sensitively managed.

#### Hospital Wards

As with clinics, consideration is necessary to review the impact of single-gender accommodation which will impact on issues such as privacy and dignity. The general rule of thumb is that staff should treat transitioning patients as they present, sufficient privacy can usually be ensured through the use of curtains or a side room. However, there may be times where there may be a need to protect a vulnerable patient (i.e. the trans patient) and think of alternatives with the patient concerned. Consider, for instance, the scenario of a trans man requiring a hysterectomy. The same principles will apply to toilets and facilities the patient will be using.

Many trans patients who are on long term hormone therapy may be required to stop taking their medication for many weeks prior to any elective surgical procedure. There is the potential for this to have an impact on their outward appearance, and should not disadvantage them from appropriate accommodation within a hospital ward.

## **Routine Health Screening**

Trans people need to be screened for risks such as cervical, breast or prostate cancer on the basis of physiological need (i.e. what body organs are present), not their birth or acquired gender. Systems and procedures may need to be reviewed with this and the need for patient privacy in mind.

## **Medical Records**

Trans patient's medical records will contain details of any gender reassignment treatment and changes of name. Even without the legal protection afforded by the Gender Recognition Act (2004) (GRA), it is good practice to take positive steps to ensure that the gender reassignment is not casually visible or communicated without the informed consent of the patient/service user. This may require the review of relevant policies and specific instructions to staff. Bear in mind, inappropriate disclosure of a trans person's gender reassignment history where they have obtained a Gender Recognition Certificate is a criminal offence under section 22 of the GRA, which can lead to prosecution and a fine.

Name change can be achieved in the UK at any time without any legal process, as long as there is no intention to defraud or deceive anyone. However, if evidence of a change of name is required this should be comparable to the requirements for any other person changing their name for non-gender variance reasons. Under no circumstances should hospital staff **ever** request to see a GRC (this could be seen as harassment), confirmation of identity can be taken from passports, bills, driving license, etc.

For example a trans person can obtain a new driving licence or passport through a Statutory Declaration before a solicitor or magistrate (the latter in court), by Deed Poll or by providing a simple written statement signed by the person concerned. This evidence with an accompanying letter from a doctor can be used to change names officially on such documents.

**There is a nationally agreed process to deal with medical records for trans patients, which results in a new NHS number being issued, and a local update of the patient's record and case notes.**

## **Communication**

Names and pronouns should be in accordance to the presentation (or specific request if one has been made) of the patient. Remember, some patients may prefer gender neutral pronouns e.g. 'ze' or 'they' which should be respected.

If administrative staff are unsure whether to address correspondence to an individual as Mr, Miss, Ms or Mrs, it is best to ask, discreetly. Envelopes may be addressed using initials only, where there is uncertainty.



While having a telephone conversation it is sometimes easy to assume a person's gender by the pitch and tone of their voice. If there is doubt to how a person identifies and it's a short call, ask for their name, then refer to them by generic gender neutral pronouns such as 'they' if necessary. If the conversation is longer, politely ask how they like would to be addressed or what pronouns they prefer to be used.

## **Consultation**

Trans people should be included in consultations concerning the way that every aspect of their identity affects their healthcare. Trans women need to use breast clinics, for example, and they may have personal safety concerns accessing surgeries and clinics like other women. Trans men may have needs relating to retained female aspects of their anatomy, and have a view on services targeting their health as men. Being trans and having additional physical or mental impairments (covered under disability section of the EqA) may add extra issues to the experience of using services. Trans people may also have caring responsibilities; they have specific concerns about ageing and so forth.

## **Expectations of Staff Behaviours**

Staff are expected to treat trans patients with respect, dignity, non-judgementally and sensitivity. Failing to meet these expectations will result in patients being discriminated against, and formal action under the relevant policy and procedures will be taken.

Refusing to use a name, pronouns or gender which the patient recognises or asking overly intrusive questions about a patient's trans status or medical procedures related to reassignment (i.e. it is not relevant for the reason of admission/presentation) will be seen as harassment and discriminatory and dealt using the appropriate policy and procedures.

## **Health Promotion**

Those running public health campaigns need to consider the factors that influence smoking, alcohol, diet and exercise for trans people – otherwise campaigns aimed at changing behaviours may miss the mark. This could lead to initiatives that simply fail to appreciate the driving forces in the lives of trans people and will therefore be ineffective in influencing them.

## **Preparing the Service**

Statistically it is highly likely that the average GP practice will encounter one or more trans people – or their partners and relatives. The same applies to hospitals and clinics. This means that awareness of trans needs must not be considered something that 'isn't needed here'. Preparedness for all staff includes training staff to address people appropriately, understand their sensitivities, fears and needs, and handle their records accordingly.

Staff who work in services which link into recognised pathways for addressing gender variance e.g. urology, endocrinology, etc. should familiarise themselves with local pathways for addressing gender reassignment. This is also true of services which may frequently interact with trans patients e.g. outpatients, surgical wards, emergency departments, etc. The current (at time of authoring) protocol can be found here:

<https://www.england.nhs.uk/wp-content/uploads/2013/10/int-gend-proto.pdf>

## **Privacy**

Privacy is a vitally important topic, especially in view of the possibility of criminal actions against staff for unauthorised disclosure of “protected information” under Section 22 of the Gender Recognition Act. However, the fact the patient may not have a GRC, the law still recognises that a trans person can be discriminated against and/or have their confidentiality breached.

## **Health Advice**

The way that health advice is given to the public (e.g. leaflets in a rack) may warrant attention. Trans people and their families need discreet access to good advice. The Department of Health has commissioned a set of leaflets covering a range of topics that service users and their families need to know about – for instance, information about hormones, what they do and how to use hormone treatment safely, examples can be found by going to: <http://www.gires.org.uk/health/department-of-health-literature-project> . This needs to be provided in a way that trans people can access while maintaining their privacy.

## **Waiting Times for Gender Reassignment Treatment**

Patients appear to frequently experience disproportionately long delays between presenting for specialist gender identity services and obtaining an initial referral appointment. In some cases waits of up to 24 or 30 months have been reported. During this period, patients and service users can be especially vulnerable and will benefit from a sympathetic and supportive approach from healthcare providers.

## **Travelling Distances**

Many processes relating to gender reassignment surgery have resulted in patients having to travel long distances for appointments. Clinics may also fail to take adequate account of this in the allocation of appointments, resulting in severe difficulties in attending and in arranging the necessary time off with employers. Some parts of the country have no local gender provision at all and commissioners may fail to appreciate that many of the components in the service they are commissioning (for example speech therapy, endocrinology or counselling) could be provided from local sources with little or no professional development. Indeed it is possible to conceive of the majority of all but very specialist elements of gender services being provided locally (or

regionally), if coordinated by an appropriate local professional. Ideally by a GP with Special Interest (GPwSI), however at time of writing this document there is no such GP.

It should be noted that excessive travelling requirements, may render existing arrangements non-compliant with the Equality Act 2010 if the services are inaccessible to disabled service users as a result.

### **Inflexibility**

Some of the remaining problems that are reported relate to inflexibility – either within the services provided, or in terms of funding rules. Two common scenarios are that the service may fail to accommodate the life circumstances of a service user (for example someone needing to abandon private care and continue their advanced reassignment with an NHS provider). Or the realities forced upon them (for example needing to move to a different area in mid-treatment). Trans patients and service users need services which can cater for different entry or handover situations without requiring the service user to start treatment again from scratch, and commissioners need to reassess policies which may refuse funding for a period after moving into their catchment. The former is medically unethical. The latter is unlawful.

### **Not just Trans!**

It is important to remember that trans people are not just trans. Their experience as patients and service users is also influenced by other factors some of which are listed below. Sometimes these combinations can add to the barriers that people face.

### ***Gender***

At the most basic level, trans people are also men and women. This means that trans people are as likely as any other man or woman to be affected by the issues relating to their acquired gender. They should therefore not be forgotten in broader consultation on gender identity. It is also worth noting that some trans people will identify with both male and female, and some with neither – which can present a unique set of issues when accessing services.

### ***Ethnicity***

Little is known about the way racial and ethnic background interacts with being trans in the UK. Knowledge of the way that cultural background influences other health issues suggests that it is important for NHS organisations to make the effort, through consultation and encouragement of research to find out.

### ***Disability***

Research carried out for the Equalities Review indicated that trans people are just as likely as the general population to have a physical or learning disability.

In particular, it is important to be aware that a learning disability does not preclude gender reassignment treatment.

### ***Religion and Belief***

Some clinical staff may voice objections towards treating trans service users on the grounds of their religion or beliefs. Managers must be prepared to deal with this in the same manner as for any other similar objection (for example on the grounds of sexual orientation), in line with the Equality, Diversity and Human Rights Policy.

However, it is important to remember that the Trust is a fully inclusive organisation that fully appreciates and values equality and diversity in the widest sense, so any form of discrimination would not be tolerated. It is also helpful to be aware that a fatwa issued by the Ayatollah Khomeini in 1976, sanctioned gender reassignment treatment under Islamic law and, although some evangelical Christian groups have opposed or sought exemption from the employment, service provision and legal recognition legislation described, other Christians are generally sympathetic and welcoming. There are at least two cases of Church of England clergy having undergone gender reassignment.

### ***Sexual Orientation***

Being trans is not a sexual orientation; it is about gender identity. Being trans doesn't predict sexual orientation – trans men can be attracted to men, women, gendered varied people or no one. The same applies to trans women. Whatever the case, however, trans people have a sexual orientation and have relationships in accordance with that. Trans people who identify as lesbian, gay or bisexual (LGB) are as affected as non-trans LGB people in terms of the issues that are relevant to them. This means that their needs should also be considered in public health policy making regarding the health of LGBT people.

### ***Age***

Age affects everyone, but some aspects can affect trans people disproportionately. Trans people have particular health concerns and social care concerns with regard to ageing. A fact sheet on this has been produced by Age UK: <http://www.ageuk.org.uk/health-wellbeing/relationships-and-family/lgbt-information-and-advice/lesbian-gay-bisexual-or-transgender-in-later-life/>

Employers and employees both share negative assumptions about age. It is anticipated that by 2021, 40% of the population will be over fifty. The proportion is already over 30%. Many people over fifty expect to encounter difficulties in even getting interviews for jobs. This also affects the fear of losing a job. Trans people feel this fear acutely. People who transition later in life may have increased difficulties with appearance as they may need longer to heal from surgeries/treatment.

The incidents of attempted suicide and self-harm in young trans people remains disproportionately high. This could be a reflection of the significant inequalities relating to health, wellbeing and broader social and economic circumstances experienced by trans people. It is therefore important to recognise and understand the issues affecting younger trans people. The Royal College of Nursing and Public Health England have produced a useful toolkit for nurses, which explores these issues (and warning signs) in great detail. The document is called 'Preventing Suicide Among Trans Young People' and can be accessed by going to:  
<https://www.gov.uk/government/publications/preventing-suicide-lesbian-gay-and-bisexual-young-people>

### **Transphobia and Hate Crime**

Please see section 1 item 19 for further details.

### **Additional Support for Patients**

Please see section 1 item 18 for further details.

### **References:**

House of Commons – Women and Equalities Committee, Transgender Equality - First Report of Session 2015/16, 14 January 2016

Department of Health - Trans: A Practical Guide for the NHS, October 2008

Galop – Shining the Light, 10 Keys to Becoming a Trans Positive Organisation, 2011

## Section 3

### 10 Tips for Improving Services for Trans People

1. Always respect a trans person's chosen pronoun. This may be in the form of "he" or "she", but might also include gender neutral pronouns such as "ze" or "they". Do not worry if you make a mistake when referring to someone, it happens and can be rectified by an apology and a commitment to try harder to get it right. Using correct pronouns promotes a professional atmosphere of respect and understanding.
2. Welcome trans people by promoting your services and displaying trans positive material in your department/ward. There are a range of LGBT newspapers, internet sites and magazines you can promote your services in, and you can also display LGBT or trans specific literature and posters to help demonstrate you are trans-friendly. Think about using gender neutral signs for toilets.
3. Treat trans individuals with dignity and respect. You can show respect by being relaxed and courteous, avoiding negative facial reactions, and by speaking to trans people as you would any other patient or service user. Don't make assumptions about people by their appearance.
4. If you are unsure about a person's gender identity, or how they wish to be addressed, ask. If you let the person know that you are only trying to be respectful, your question will usually be appreciated. For instance, you can ask, "What are your preferred pronouns?" or "What name would you like to be called?" In order to facilitate a good provider-patient relationship, it is important not to make assumptions about the identity, beliefs, concerns, or sexual orientation of transgender and gender non-conforming patients.
5. Establish an effective policy for addressing discriminatory comments and behaviour in your department. Ensure staff are fully aware of their obligations and procedures as stated in the Equality, Diversity and Human Rights and Dignity at Work policies, and that they are up-to-date with any training that is offered.
6. Remember to keep the focus on care rather than indulging in questions out of curiosity. In most healthcare situations, people's assigned sex at birth is irrelevant, although there are a few exceptions. Asking inappropriate questions about a person's assignment at birth is invasive and potentially very hurtful. You do not need to know what a person's primary or secondary characteristics are in order to place them in the appropriate area in your ward, for example. If you are not sure, ask the person themselves and respect their choices.

7. Remember that the presence of a trans person in your ward or department is not always a training opportunity for other staff. Many trans people have had hospital staff call in others to observe their bodies and the interactions between a patient and healthcare provider, often out of an impulse to train junior staff. However, like in other situations where a patient has a rare or unusual finding, asking a patient's permission is a necessary first step before inviting in a colleague or trainee. Many trans patients wish to maintain control over who sees them unclothed. Therefore, when patients are observed without first asking their permission, it can quickly feel like an invasion of privacy and creates a barrier to respectful, competent health care.

8. It is inappropriate to ask trans patients about their genitals if it is unrelated to their care. A person's genital status— whether one has had any lower surgery or not—does not determine that person's gender identity for the purposes of social behaviour, service provision, or legal status. Remember that trans people might be very sensitive about that area of their body. Trans women may not want to use a bottle and trans men might not want to use a slipper pan for example.

9. Never disclose a person's trans status or gender identity history to anyone who does not explicitly need the information for care. Just as you would not needlessly disclose a person's HIV status, a person's gender identity is not an item for gossip. Having it known that one is trans can result in ridicule and possible violence towards that individual. If disclosure is relevant to care, use discretion and inform the patient whenever possible.

10. Become knowledgeable about trans healthcare issues. Get training, stay up to date on trans issues, and know where to access resources.

## Section 4

### Medically Addressing Gender Variance Issues

**The information contained in this section is taken from NHS Choices, it is not a prescriptive or definitive list of prescribed treatment but aims to give an idea what treatment/action might be taken to address issues surrounding gender dysphoria. The only definitive way to find this out is to talk to the individual concerned.**

Treatment for gender dysphoria aims to help people with the condition live the way they want to, in their preferred gender identity. What this means will vary from person to person and some people will need more treatment than others.

Once an adult or child has been diagnosed with gender dysphoria, different treatments can be considered. Counselling about the range of available treatment options and their implications should be offered.

#### Treatment for Children and Young People

If the child or young person is under 18 years of age, they should be referred to a specialist child and adolescent gender identity clinic.

These clinics can offer ongoing assessment for children with gender dysphoria, and specialised treatment and support for children and their families. The child will be fully assessed before any treatment begins.

The child's treatment should be arranged with a multi-disciplinary team (MDT). The MDT may include:

- a mental health professional, who is trained in dealing with gender dysphoria in children and teenagers;
- a paediatric endocrinologist, a specialist in hormone conditions in children.

#### Children up to 16

If the child has been diagnosed with gender dysphoria and they have reached puberty, they may be treated with gonadotrophin-releasing hormone (GnRH) analogues. These are synthetic hormones that suppress the hormones naturally produced by your body.

Puberty is divided into stages. These are called Tanner stages, named after James Mourilyan Tanner who first identified them. GnRH analogues may be suitable for children who have reached Tanner stage two, which means a number of physical changes have taken place, such as pubic hair starting to



grow. In girls, this is around 11 years of age and in boys it is around 12 years of age.

Some of the changes that take place during puberty are driven by hormones. For example, the hormone testosterone, which is produced by the testes in boys, helps stimulate the development of the penis. As GnRH analogues suppress the hormones that are produced by the child's body, they also suppress puberty.

GnRH analogues can be taken until the child reaches 16 years of age, after which cross-sex hormones can be taken (see below).

### **Young People over 16**

If the child has been taking GnRH analogues for several years and is still diagnosed as having gender dysphoria, they may be offered cross-sex hormones. These can alter the child's body further to fit with their gender identity. The effects of these hormones are only partially reversible, so they are not offered to children who are under 16 years of age.

Once the child reaches adulthood at 18 years of age, they can begin the process of gender confirmation/reassignment surgery, which will change their gender irreversibly. Not all children who experience gender variance will go on to transition.

The amount of treatment that the child has will depend on how strong and long-lasting their feelings of gender dysphoria are. However, all children and their families should be offered counselling and support through their gender identity clinic.

### **Treatment for Adults**

Adults who have been diagnosed with gender dysphoria should be referred to a specialist gender identity clinic. These clinics offer ongoing assessments for people with gender variance. They can also provide support and advice about living in your preferred gender role, including:

- mental health support
- hormone treatment
- ways to dress in your preferred gender role
- ways to behave in your preferred gender role
- language and speech therapy
- hair removal treatments
- peer support groups to meet other people with gender dysphoria
- relatives' support groups for your family

For some people, support and advice from a clinic are all they need to feel comfortable in their gender identity. However, others will need more extensive treatment, such as transition with a range of surgeries from one gender to the other. The amount and extent of treatment is completely up to the individual.

Once referred to a gender identity clinic, it is likely that there will be another full assessment, for a period of approximately three months. This will usually be with the input of a psychiatrist, this assessment is necessary to confirm diagnosis and, if the patient wants to have hormone therapy, means that they can take the necessary health tests first.

### **Cross-Sex Hormone Therapy**

Cross-sex hormone therapy means taking the hormones of the preferred gender:

- a trans man (female becoming a male) will take testosterone
- a trans woman (male becoming a female) will take oestrogen.

The aim of hormone therapy is to make the patient more comfortable with themselves, both in their physical appearance and how they feel psychologically. These hormones start the process of changing the body into one that is more female or more male, depending on gender identity.

Hormone therapy may be all the treatment needed to enable the individual to live with their gender variance. The hormones may improve how they feel and may mean that they do not need to start living in their preferred gender or have surgery.

### **Fertility**

Trans women who take oestrogen may become less fertile because oestrogen can lower sperm count and reduce the quality of the sperm. Some trans women choose to put sperm in a sperm bank before they start hormone therapy, so that they can use this sperm if they want to have children later.

Trans men taking testosterone may also become less fertile.

For trans men and women, there is no guarantee that fertility will return to normal if hormones are stopped.

### ***Trans Women***

In trans women some of the changes that may be noticed from hormone therapy include:

- penis and testicles may get smaller
- may have less muscle
- may have more fat on your hips
- breasts may become lumpy and may increase in size slightly
- may have less facial and body hair

Hormone therapy will not affect the voice of a trans woman. To make the voice higher, trans women will need vocal therapy and possibly vocal cord or

trachea surgery. Hormone therapy may make it harder to get an erection and have an orgasm.

### ***Trans Men***

Some of the changes that may be noticed from hormone therapy in trans men include:

- may have more body and facial hair
- may have more muscle
- clitoris may get bigger
- periods may stop
- may have an increased sex drive (libido).

Hormone therapy can also cause baldness and acne in trans men. The voice may get slightly deeper.

### **Monitoring**

While taking these hormones, regular check-ups with the patient at the gender identity clinic will need to be undertaken. Assessments will be undertaken to find out whether the hormone treatment is of benefit, as some people may find the effects of hormone treatment unpleasant.

If that hormone treatment is not right for the patient, this can be discussed with the treating healthcare professionals. If necessary, the patient can stop taking the hormones, although some changes are irreversible such as:

- a deeper voice in trans men
- breast growth in trans women.

Alternatively, some may be frustrated with how long hormone therapy takes to produce results, as it can take a few months for some changes to develop. Hormones cannot change the shape of the skeleton, for example how wide shoulders or hips are. It also cannot change height.

Hormones for gender variance are also available from other sources, such as the Internet, it may be tempting to get them from here instead of through a gender identity clinic. However, hormones from other sources may not be licensed and, therefore, may not be safe.

### **Social Gender Role Transition (SGRT)**

Prior to having gender reassignment surgery, the patient will first need to live in their preferred gender identity full time for at least a year. This is known as social gender role transition, previously known as real life experience and will help confirm that surgery is the right option.

Once hormone treatment is under way, the patient can start as soon as they are ready with the support of the clinic. The length of SGRT varies from person to person, but is usually between one and two years.

There may be various other surgical treatments during SGRT to prepare for transition surgery, including:

- mastectomy for trans men
- mammoplasty for trans women
- feminising facial surgery for trans women.

Trans women should continue with hormone therapy for at least 18 months before having a mammoplasty to ensure that the treatment has had the maximum effect on the development of the breasts.

## **Gender Reassignment Surgery**

Once the SGRT has been completed and MDT feel that the patient is ready, The patient then may decide to have surgery to permanently alter their gender.

The most common options are discussed below; however final decisions will be made with the patient and treating medical team.

### ***Trans Men Surgery***

For trans men, surgery may involve:

- a hysterectomy (removal of the womb)
- a salpingo-oophorectomy (removal of the fallopian tubes and ovaries)
- construction of a penis using a phalloplasty or a metoidioplasty
- a bilateral mastectomy (removal of both breasts)
- scrotoplasty (construction of a scrotum) and testicular implants
- penile implant.

A phalloplasty uses the existing vaginal tissue and skin taken from the inner forearm to create a penis. A metoidioplasty involves creating a penis from the clitoris, which has been enlarged through hormone therapy.

The aim of this type of surgery is to create a functioning penis, which allows urine to pass while standing up and to retain sexual sensation. More than one operation may be needed to achieve this.

## ***Trans Women Surgery***

For trans women, surgery may involve:

- an orchidectomy (removal of the testes)
- a penectomy (removal of the penis)
- a vaginoplasty (construction of a vagina from the leftover tissue of the penis)
- breast implants
- facial feminisation surgery
- vulvoplasty (construction of the vulva)
- clitoroplasty (construction of a clitoris with sensation).

The vagina is usually created and lined with skin from the penis, with tissue from the scrotum used to create the labia. The urethra is shortened and repositioned. In some cases, a piece of bowel may be used during a vaginoplasty if hormone therapy has caused the penis and scrotum to shrink a significant amount.

The aim of this type of surgery is to create a functioning vagina with an acceptable appearance and retained sexual sensation.

Some trans women cannot have a full vaginoplasty for medical reasons, or they may not want to have a functioning vagina. In such cases, a cosmetic vulvoplasty and clitoroplasty is an option, as well as removing the testes and penis.

## **After Surgery**

After surgery, the vast majority of trans people are happy with their new gender and feel comfortable with their gender identity. One review of a number of studies that were carried out over the last 20 years found that 96% of people who had gender reassignment surgery were satisfied.

Following gender confirmation/gender reassignment surgery, one possible complication is that people may face prejudice or discrimination because of their condition. Treatment can sometimes leave people feeling:

- isolated if they are not with people who understand what they are going/have gone through
- stressed about or afraid of not being accepted socially
- discriminated against at work.

## **Sexual Orientation**

Once transition has been completed, it is possible for a trans man or woman to experience a change of sexual orientation. For example, a trans woman who was attracted to women before surgery may be attracted to men after surgery. However, this varies greatly from person to person, and the sexual orientation of many trans people does not change after transition.

Some trans people going through the process of transition may not know what their sexual orientation will be until it is complete. For many people, the issue of sexual orientation is secondary to the process of transition itself.

## Section 5

### Non-Binary Gender Factsheet

*Because my identity is not legally recognised or protected, I have to choose between the emotional distress of not disclosing my identity (which makes me physically ill), or risking being disbelieved and insulted if I do disclose (which triggers self-harm).*

#### Definition

- *Non-binary gender*, and *genderqueer*, are umbrella terms used to describe all people who do not experience themselves as being male or female (i.e. within the gender binary).
- Non-binary people fall under the wider definition of *transgender* given that they have not remained in the gender they were assigned at birth.

*I have been mocked by a group of hospital staff out on their cigarette break while I waited to be picked up from A&E – e.g. ‘What is that?’ ‘Is that a man or a woman?’ pointing and laughing.*

#### Extent

- According to official statistics, the proportion of the UK population who define as non-binary when given a choice between male, female and another option is 0.4%, which is 1 in 250 people (Titman, 2014).
- Around a quarter to a third of trans people identify in some way outside the gender binary.
- Joel et al. (2014) found that, in a general population, over a third of people said that they were to some extent the ‘other’ gender, ‘both genders’ and/or ‘neither gender’.
- YouGov found that 19% of people disagreed with the statement ‘you are either a woman or a man’ and a further 7% were not sure. A subsequent poll found around 20% of people placed themselves between the poles of ‘100% male’ and ‘100% female’ although the results of this have not been officially reported yet.
- Globally many cultures recognise more than two genders (Herdt, 1993). As with sexuality, in western cultures it seems that binary categories (male/female, gay/straight) have been imposed on a human experience which is not binary.

*I have no protection of my gender identity in the workplace, and am constantly misgendered. This has made me depressed to the point of being suicidal. Recently I didn’t get a job because they asked intrusive questions about my gender. I have no legal protection.*

#### Research Evidence

- McNeil et al. (2012) found that those who identify as non-binary and/or express themselves in ways that challenge binary gender face similarly high levels of mental health difficulties to trans people generally.

- Harrison et al. (2012) found that over 40% of non-binary people had attempted suicide at some point, a third had experienced physical assault, and a sixth sexual assault based on their gender.

*Seeing the discomfort and anger when people address me initially as "sir" and then switch to "madam" because of my ambiguous appearance. That anger could easily turn physical and I would be very vulnerable. This makes me feel unsafe. Because my identity is not legally recognised or protected, I'm not confident that the police would help me.*

### **Specific Detriments**

A recent survey of 79 non-binary people in the UK through the *Beyond the Binary* online magazine found that the vast majority reporting feeling uncomfortable (100%) and unsafe (94%) being non-binary in the UK.

Respondents reported the following key specific detriments involved in being non-binary (percentages in brackets refer to the proportion of people who explicitly mentioned each detriment):

- Inability to access education, work, housing, or healthcare without misgendering oneself (54%).
- Inability to have gender recorded correctly on medical, legal, educational, and other records (41%).
- Hospitals, prisons, care-homes and other institutions failing to recognise gender accurately (38%).
- Lack of accessible public facilities (toilets, changing rooms, sports facilities, etc.) (32%).
- Facing constant misgendering by others in relation to pronouns, titles, and everyday terms (32%).
- Everyday harassment, discrimination and hate crime, leading to feeling very unsafe (25%).
- Inability to access many NHS trans healthcare services due to lack of non-binary provision (21%).
- Feeling forced to present as male/female to be accepted, access work and make a living (18%).
- Intense school and/or workplace bullying due to gender expression (13%).
- Being labelled as 'difficult', 'dangerous' or 'unprofessional' when being open about gender, and the negative impact of this on employment, salary, childcare and/or accessing services (6%).
- Being forbidden in school or work settings from presenting as non-binary -no legal recourse (4%).

These issues clearly had a profound impact on mental and physical health. It was widely felt that lack of visibility in media and wider culture was a key reason why it was very difficult to be open with friends, family, neighbours, and colleagues, and why there was a lack of support and resources available



*Police repeatedly ignored my description of a hate crime as "transphobic" as I don't match their idea of what a trans person looks like.*

*I feel unsafe at work. I'm deeply anxious for nine hours a day. The effect on my mental health is severe on bad dysphoria days.*

*Doctor doesn't acknowledge my non-binary identity and will not refer me to a GIC.*

*There's complete lack of provision in the UK. I have no legal protection in the workplace, while others on the gender spectrum do. As a result I don't feel able to be out in my civil service job.*

### **Key Policy Implications**

- *Legal Recognition:* Moving towards a situation where non-binary people can have their gender recorded accurately on all official documents, and all censuses and surveys include options for non-binary gender.
- *Health:* Ensuring that trans healthcare is equally accessible to non-binary and binary trans people, and that those referring to gender services (GPs and other medical professionals) are fully aware of non-binary gender. Improving access to psychological services (and practitioner awareness) in relation to non-binary people given the toll that living in a highly binary culture takes on mental health.
- *Education:* Education at all levels about the diversity of gender experiences. Addressing any aspects of education that require people to adhere to a gender binary.
- *Criminal Justice:* Recording and addressing hate crime and harassment of non-binary people, and ensuring that police are well-trained in this area.
- *Immigration:* Ensuring that immigration services are aware of non-binary gender and the fact that other genders may be recognised in the countries of origin of refugees and asylum seekers.
- *Culture, Media and Sport:* Improving the visibility of non-binary gender, and ensuring that all public facilities are accessible to non-binary people.

*Just trying to have the correct title and gender recorded is a daily struggle. Accessing gendered spaces such as dressing rooms, toilets, etc. is exceptionally dangerous and frequently requires you to misgender yourself in order to gain access to what you need.*

**The material in this factsheet is drawn from the *Beyond the Binary* survey and from:**

- Richards, C. Bouman, W., & Barker, M. J. (Eds.) (2016). *Genderqueer and Non-Binary Genders*. Basingstoke: Palgrave Macmillan.
- Barker, M. J. & Richards, C. (2015). Further genders. In C. Richards & M. Barker (Eds.) *Handbook of the Psychology of Sexuality and Gender*. pp.166-182. Basingstoke: Palgrave Macmillan.
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- Herdt, G. H. (1993). *Third sex, third gender: Beyond sexual dimorphism in culture and history*. Zone Books New York.
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- McNeil, J., Bailey, L., Ellis, S., Morton, J., & Regan, M. (2012). *Trans mental health study 2012*. [www.scottishtrans.org](http://www.scottishtrans.org).
- Richards, C., Bouman, W. P., Seal, L., Barker, M. J., Nieder, T. O, & T'Sjoen, G. (2016). Non-binary or genderqueer genders. *International Review of Psychiatry*.
- Titman, N. (2014). *How many people in the United Kingdom are nonbinary?* [www.practicalandrogyny.com](http://www.practicalandrogyny.com)
- TMW (2014). *Understanding non-binary people: A guide for the media*. [www.transmediawatch.org/Documents/non\\_binary.pdf](http://www.transmediawatch.org/Documents/non_binary.pdf).

*There's no support for non-binary people at my school, and all the information I have about myself is what I've found on the internet. I find it difficult to socialise with my friends because I feel like I have a big secret that I can't let anyone know about, in case they turn on me and attack me for it.*

Link to Parliament TV recording of trans\* inquiry oral evidence session before W&E Committee on 13/10/15

<http://parliamentlive.tv/Event/Index/4e7f52c6-1357-43f8-98c0-af160b156b40>

**Information provided from Southeast Coast Ambulance Service NHS Foundation Trust.**

### Glossary of Terms

#### **Affirmed Gender / Confirmed Gender**

'Affirmed' gender may be used to describe the post-transition gender role. Sometimes it may be called the 'new' role. These terms are often preferred to the term 'acquired' gender. Trans people are not acquiring a new gender identity, but they are affirming their inner, and until transition hidden, gender identity.

#### **Gender**

The state of being male, female or not (e.g. trans, gender fluid, gender queer, etc.) typically with reference to social and cultural differences rather than just biological ones.

#### **Gender Identity**

Gender identity describes the psychological identification of oneself as a boy/man or as a girl/woman. There is a presumption that this sense of identity will evolve along binary lines and be consistent with the sex appearance. Where this is the case, people may be described as **cisgender**. Those who fall outside of these binary lines are trans. Those who do identify as both male or female or neither are non-binary.

#### **Gender Recognition Act (2004)**

Under the Gender Recognition Act, trans people who experience severe gender variance described above, and have committed to live their life in their affirmed gender, may apply to the Gender Recognition Panel (GRP) for a Gender Recognition Certificate (GRC). The GRC then entitles them to recognition of the gender stated on that certificate "for all purposes". Where the birth was originally registered in the UK, the GRC may be used to obtain a new birth certificate. About 4,000 (since the end of June 2015) people have now made successful applications for legal recognition of their new gender status to the GRP. Those seeking a change of gender status must provide the GRP with evidence of a 'diagnosis' of persistent gender dysphoria, and must convince it of their intention to live in the new role for the rest of their lives. This is a paper exercise and does not require the applicant to appear in person. Details of medical treatment and relevant dates are required. Surgery to address gender variance issues is not a requirement, although where it has taken place, applicants must supply details.

#### **Gender Role**

The gender role is the social role – the interaction with others which both gives expression to the inner gender identity and reinforces it. Despite the greater gender equality in modern Western culture in terms of: the subjects studied in school and at university; the choice of friends; work and domestic arrangements; dress and leisure pursuits, there is still a presumption of conformity with society's 'rules' about what is appropriate for a man or a

woman, a boy or a girl, especially in terms of appearance. Too great a transgression often causes anxiety and discomfort in those who witness it.

### **Gender Variance / Gender Dysphoria / Gender Identity Disorder**

It is now understood that the innate gender identity, although powerfully influenced by the sex of the genitalia and the gender of rearing, is not determined by these factors. There is evidence that sex differentiation of the brain may be inconsistent with other sex characteristics, resulting in individuals dressing and/or behaving in a way which is perceived by others as being outside cultural gender norms; these unusual gender expressions may be described as gender variance. Where conforming with these norms causes a persistent personal discomfort, this may be described as gender dysphoria. In many, this includes some level of disgust with the phenotype, since this contradicts the inner sense of gender identity. Gender dysphoria is not a popular term with those experiencing the condition since it has been associated with the DSM-IV 'clinical diagnosis' of gender identity disorder published by the American Psychiatric Association. Both these descriptions imply a diagnosis of 'pathology' and mental illness, whereas the more neutral term, gender variance, denotes that these departures from stereotypical gender experience and expression are part of a natural, albeit unusual, human development.

### **Genuine Occupational Qualification (GOQ/Genuine Occupational Requirement (GOR)**

Exceptions to the law regarding discrimination are permitted in cases where a protected characteristic is genuinely needed for them to be able to carry out their duties for a specific job. What employers may legitimately claim as a GOQ or GOR for a job varies according to the characteristic being discriminated on. However, in general the onus is on the employer to demonstrate that the characteristic concerned is a genuine requirement (or intrinsic) for the job, crucial to the job's performance, and that it is proportionate to apply the requirement in the case in question.

For example, it would be a GOQ/GOR to discriminate in favour of women when recruiting workers to work in a refuge for abused women. Due to the experiences of the clientele, it would be deemed inappropriate for a man to be within the vicinity unsupervised.

### **Intersex Condition**

Intersex condition occurs when the anatomical sex of a person is ambiguous, and involves having a combination of the physical or chromosomal characteristics of both sexes at birth. For a variety of reasons, 1 in 80 or so babies is born with some kind of sex or gender anomaly.

### **Non-binary**

Is an umbrella term covering any gender identity that doesn't fit within the gender binary e.g. male or female. The label may also be used by individuals wishing to identify as falling outside of the gender binary without being any more specific about the nature of their gender. This has some overlap with gender nonconforming, a label for individuals whose gender expression

doesn't fit within the gender binary, without being any more specific about how their expression varies from it. As an umbrella term, non-binary has similar scope to genderqueer, with most non-binary-identifying individuals also considering themselves genderqueer.

However it should be noted: genderqueer means non-normative or queer gender while non-binary means gender that falls outside the gender binary model. Both of these terms are extremely similar in scope, however in practice their connotations are significantly different.

### **Protected Characteristics**

The Equality Act 2010, clearly defines which groups of people are protected from discrimination, these are known as the 'protected characteristics'. They are described within the act as:

- **Age** - Where this is referred to, it refers to a person belonging to a particular age (e.g. 32 year old) or range of ages (e.g. 18 - 30 year olds).
- **Civil Partnership or Marriage Status** - In England and Wales marriage is no longer restricted to a union between a man and a woman but now includes a marriage between a same-sex couple. This will also be true in Scotland when the relevant legislation is brought into force. Same-sex couples can also have their relationships legally recognised as 'civil partnerships'. Civil partners must be treated the same as married couples on a wide range of legal matters. The Equality Act 2010 does not protect single people.
- **Disability** - A person has a disability if they have a physical or mental impairment which has a substantial and long-term (minimum of 12 months) adverse effect on that person's ability to carry out normal day-to-day activities.
- **Gender** - A man or a woman.
- **Gender Reassignment** - The process of transitioning from one gender to another. (Protection is offered to those who plan to undergo, are undergoing or have undergone gender reassignment – there is no requirement to be under medical supervision).
- **Pregnancy and Maternity** - Pregnancy is the condition of being pregnant or expecting a baby. Maternity refers to the period after the birth, and is linked to maternity leave in the employment context. In the non-work context, protection against maternity discrimination is for 26 weeks after giving birth, and this includes treating a woman unfavourably because she is breastfeeding.
- **Race** - Refers to a group of people defined by their race, colour, and nationality (including citizenship) ethnic or national origins.
- **Religion or Belief** - Religion has the meaning usually given to it but belief includes religious and philosophical beliefs including lack of belief (e.g. atheism). Generally, a belief should affect your life choices or the way you live for it to be included in the definition.
- **Sexual Orientation** - Whether a person's sexual attraction is towards their own sex, the opposite sex or to both sexes.

## **Sex**

Sex refers to the male/female biological development – the phenotype. In an infant, sex is judged entirely on the genital appearance at birth. Other phenotype factors such as karyotype (chromosomal configuration) are seldom tested unless a genital anomaly is present. There is a presumption that an apparent male infant will identify as a boy, and vice versa.

## **Trans Man / Trans Woman**

The expression trans is often used synonymously with transgender in its broadest sense. Sometimes its use is specific; for instance, those born with female phenotype but identifying as men may be referred to as trans men; and those born with male phenotype but identifying as women may be referred to as trans women. Where trans people have transitioned permanently, many prefer to be regarded as men and women, without any reference to their former gender role or previous trans status.

## **Transgender**

Transgenderism has had different meanings over time, and in different societies. Currently, it is used as an inclusive term describing all whose gender expression falls outside the typical gender norms; for example, those who cross-dress intermittently for a variety of reasons not related to gender variance (e.g. transvestism), as well as those who live continuously outside gender norms, sometimes with, and sometimes without, medical intervention. There is a growing acknowledgement that although there is a great deal of difference between say, a drag artist and a trans person who is permanently living in their affirmed gender, there are nonetheless areas in the transgender field where the distinctions are more blurred; for example, a person who cross- dresses intermittently for some years, may later transition.

## **Transition**

Transition is the term used to describe the point at which a permanent change of gender role is undertaken, in all spheres of life – in the family, at work, in leisure pursuits and in society generally. Some people make this change gradually, however, others emerge much quicker.

## **Sexual Orientation**

Sexual orientation is a separate issue from gender identity. Trans people may be gay, heterosexual, bisexual or asexual. Their sexual relationships may remain the same through the transition process, or they may change.

## **Reference**

GIRES – Legal Protection and Good Practice for Gender Variant, Transsexual and Transgender People in the Workplace.