

**CONTROLLED DOCUMENT**

## Supporting Individuals who are Transgender (Trans) and Non-binary Policy

<b>CATEGORY:</b>	Policy
<b>CLASSIFICATION:</b>	Human Resources
<b>PURPOSE</b>	This policy sets out the Trust's responsibilities as a service provider and an employer for transgender (Trans) and non-binary people.
<b>Controlled Document Number:</b>	<b>1016</b>
<b>Version Number:</b>	<b>2.2</b>
<b>Controlled Document Sponsor:</b>	Chief People Officer
<b>Controlled Document Lead:</b>	Deputy Director of Inclusion, Health and Wellbeing and Social Cohesion
<b>Approved By:</b>	Chief Executive Advisory Group
<b>On:</b>	28 <sup>th</sup> August 2019
<b>Review Date:</b>	28 <sup>th</sup> August 2022
<b>Distribution:</b>	
<ul style="list-style-type: none"> <li>• <b>Essential Reading for:</b></li> </ul>	All staff
<ul style="list-style-type: none"> <li>• <b>Information for:</b></li> </ul>	All staff

# Contents

Paragraph		Page
1	Policy Statement	3
2	Scope	3
3	Framework	3
4	Duties	6
5	Implementation and Monitoring	7
6	References	8
7	Associated Policy and Procedural Documentation	9
<b>Appendices</b>		
Appendix A	Abbreviations and Definitions	11
Appendix B	Gender Neutral / Gender Inclusive Pronouns	14
Appendix C	Monitoring Matrix	15

## Version Control

Version	Title	Issue Date
2.0	Supporting Individuals Who Are Transgender (Trans) And Non-Binary Policy	26/04/2017
2.1	Supporting Individuals Who Are Transgender (Trans) And Non-Binary Policy	06/04/2021
2.2	Supporting Individuals Who Are Transgender (Trans) And Non-Binary Policy	04/12/2023

## **1. Policy Statement**

- 1.1 The purpose of this policy and its associated documents is to ensure that University Hospitals Birmingham NHS Foundation Trust (“the Trust”) is committed to leading and promoting diversity, equal opportunities and supporting human rights in terms of the provision of health services for the community it serves and in its practice as a leading employer.
- 1.2 The Trust aims to create an organisation which values diversity and promotes equal opportunities regardless of age, disability, ethnic origin, sex, sexual orientation, gender reassignment, race, religion or belief, marriage or civil partnership, pregnancy or maternity. Discrimination against a Trans person must be challenged, whether the discrimination stems from staff, patients or the public. This policy supports the Trust in its delivery of inclusive services and ensures that it does not breach the Equality Act 2010.
- 1.3 A Trans person is someone whose gender identity does not match the gender they were assigned at birth. A Trans person may undergo the process of aligning their life and physical identity to match their gender identity, which is referred to as transitioning. A Trans person has the protected characteristic of gender reassignment, as defined under the Equality Act 2010. In addition to this definition the Trust also recognises other gender identities such as non-binary, gender fluid and non-gendered who would also be covered under this policy. Definitions and abbreviations are detailed in Appendix A.
- 1.4 This policy sets out the expectations and other considerations for Trust employees, when dealing with Trans patients. It also applies to Trust employees who are transgender and states that gender reassignment must be treated with respect and dignity by managers and teams. Staff must be treated as the gender they have chosen to be.

## **2 Scope**

This policy applies to all areas and activities of the Trust and to all individuals employed throughout the Trust including contractors, volunteers, students, locum, bank/agency staff and staff employed on honorary contracts.

## **3 Framework**

- 3.1 This section describes the broad framework for this policy. Further information is provided in the associated procedural documents.
- 3.2 The Chief People Officer shall approve all procedural documents associated with this policy, and any amendments to such documents, and is responsible for ensuring that such documents are compliant with this policy.

### 3.3 Patients

- 3.3.1 The patient must be asked how they wish to be addressed and the correct pronouns must be used at all times e.g. she/he/they. Please refer to appendix B for more information on gender neutral / gender inclusive pronouns.
- 3.3.2 In some situations an individual's gender assigned at birth will have important implications for the individual's subsequent assessment and treatment. It is essential therefore that, where this is applicable, staff make this clear to individuals before assessments, tests or investigations are carried out.
- 3.3.3 The patient may not have the support of their family with regards to changing gender i.e. they may refer to the patient in terms of their previous gender. If this is the case staff must refer to the patients using the gender the patient has requested.
- 3.3.4 A discussion must take place with the patient regarding same sex accommodation and the patient must be asked if they would prefer to be placed in a same-sex environment of their preferred gender and/or the privacy of a single room, if one is available, but a private room must not be arranged without their consent. However, depending on how the patient presents, they may prefer not to be placed on a ward of their identified gender.
- 3.3.5 Staff must be aware that the Trans patient needs sensitive support for some areas of their care, for example a female may need to shave facial hair; a male may need feminine hygiene products such as sanitary towels and the availability of a sanitary towel bin.
- 3.3.6 A chaperone must be offered in line with the Trust Procedure for the Use of Chaperones.
- 3.3.7 The patient may be anxious and sensitive due to having high hormone levels from taking medication (this may be more notable for men transitioning to women). Additionally, the patient may be anxious about how they will be treated while in hospital due to poor previous experiences.
- 3.3.8 If, in an emergency situation, it is unclear if the patient is a Trans person (because they are unconscious) the staff need to try and ascertain the person's preferred gender before contacting the family or moving to a ward. For example, the staff may look for forms of identification the patient has to see if this will indicate their preferred gender.

- 3.3.9 The patient must be treated as their preferred gender in the transition period. This will include using the preferred gender facilities i.e. toilets and changing areas.
- 3.3.10 Discrimination from staff, other patients or public will not be tolerated. In the case of staff being discriminatory, the manager must use the relevant policies/procedures to deal with the situation e.g. Disciplinary Procedure.
- 3.3.11 If other patients or the public are abusive or harass a Trans individual, they must be reminded that this behaviour will not be tolerated by the Trust. The Trust has a duty under the Equality Act 2010 to foster good relations between individuals who have protected characteristics and those who do not.
- 3.3.12 In order to comply with the Gender Recognition Act the PDS NHAIS (2012) provides general practitioners with the current process for handling patients' medical records. In cases where the patient is given a new NHS number, to ensure continuity of care and avoidance of clinical risk, all previous medical information relating to the individual must be transferred to a newly created health record envelope. Any information relating to the patient's previous gender and name must be removed from the record. The change of name, NHS number and transfer of previous health information into a new health record must take place for both GP records, hospital records and other health records as appropriate.

#### 3.4 Staff

- 3.4.1 If a member of staff is proposing to go through gender reassignment or to live as the opposite gender, a discussion must take place with their manager to negotiate a plan for how this will be managed. Issues that may need to be considered are:
- Who will inform the staff team of the change? The staff member may prefer the manager to do this;
  - Will the change of gender affect the job role i.e. having regard to the nature and/or context of the role, **not** being a Trans person is an 'occupational requirement'. The requirement **must** be crucial to the post, and not simply one of several factors. In addition, the requirement **must** be a proportionate means of achieving a legitimate aim. Line Managers should seek HR/Legal advice if they consider an occupational requirement may apply.
  - What changes to systems/records will be needed, e.g. change of name for payroll;

- Does the team require training or information on trans issues to support the member of staff and to ensure no discrimination occurs?
- 3.4.2 The matter must be dealt with sensitively and the involvement of the wider team must be considered with the staff member's consent and approval.
- 3.4.3 The staff member must be treated as their preferred gender in the transition period. This will include wearing the appropriate uniform and having access to and using the preferred gender's facilities i.e. toilets and changing areas.
- 3.4.4 Time off for medical appointments is addressed in the Trust's Special Leave Procedure.
- 3.4.5 There is absolutely no obligation for a transgender person to disclose their gender history as a condition of employment. For most people, this is a very private matter. Many transgender people have experienced prejudice and harassment as a result of disclosure. However, if they do choose to talk about it, it would be unlawful to use this as a reason for not offering them the job. Similarly, it is unlawful to dismiss someone for not disclosing this at a later date. Please refer to the Trust Recruitment and Selection Policy and associated procedures.

## **4 Duties**

### **4.1 Chief People Officer**

The Chief People Officer is responsible for the implementation of this policy and reporting to the Board on any issues of discrimination.

### **4.2 Deputy Director of Inclusion, Health and Wellbeing and Social Cohesion**

Deputy Director of Inclusion, Health and Wellbeing and Social Cohesion is responsible for:

- 4.2.1 Overseeing the development and monitoring of the Transgender Policy and procedures and
- 4.2.2 Consulting with members of the transgender community through the Birmingham Lesbian, Gay, Bisexual, and Transgender (LGBT) and local staff network.

### **4.3 Line Managers**

Line managers are responsible for:

- 4.3.1 promoting equal opportunities in practice and, where applicable, for preventing patient and staff discrimination;
- 4.3.2 ensuring that all staff are aware of this policy and attend any relevant training;
- 4.3.3 challenging staff who discriminate and ensuring that the relevant procedures are followed i.e. Disciplinary Procedure etc.;
- 4.3.4 supporting their staff to challenge discrimination from other staff, patients or the public;
- 4.3.5 agreeing a plan with a staff member who is proposing to transition to ensure that they are supported throughout the process; and
- 4.3.6 ensuring that a Trans person is addressed and treated as the gender they identify with.

#### **4.4 Staff**

All staff have a personal and professional responsibility to support the equal and fair treatment of colleagues and to ensure patients are treated consistently in a non-discriminatory manner and in line with clinical practice. All staff members are responsible for:

- 4.4.1 Complying with this policy and procedures; and
- 4.4.2 Challenging/reporting discriminatory practice or language.

## **5 Implementation and Monitoring**

### **5.1 Implementation**

- 5.1.1 This policy will be available on the Trust's Intranet Site. The policy will also be disseminated through the management structure within the Trust.
- 5.1.2 A clear communication will be sent to all managers and staff publicising its existence.
- 5.1.3 Training will be provided with the launch of the policy. Reference to the policy will be made within the Inclusion education session incorporated into the corporate induction, therefore ensuring all new starters are informed.
- 5.1.4 Inclusion training for managers will also include the topic of Trans.

## 5.2 Monitoring

Appendix A provides full details on how the policy will be monitored by the Trust.

## 6 **References/Bibliography**

Department of Health (2008) **Trans: A Practical Guide for the NHS, Department of Health, London.**

<http://www.gires.org.uk/assets/DOH-Assets/pdf/doh-trans-practical-guide.pdf>  
[Accessed 09.12.16]

Equality and Human Rights Commission (2009) **Provision of goods, facilities and services to Trans people. Guidance for public authorities in meeting your equality duties and human rights obligations.**

[http://www.ilgaeurope.org/sites/default/files/provision\\_of\\_goods\\_facilities\\_and\\_services\\_to\\_trans\\_people\\_-\\_equality\\_and\\_human\\_rights\\_commission.pdf](http://www.ilgaeurope.org/sites/default/files/provision_of_goods_facilities_and_services_to_trans_people_-_equality_and_human_rights_commission.pdf)  
[Accessed 09.12.16]

Equality Act 2010

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

Gender Recognition Act

<http://www.legislation.gov.uk/ukpga/2004/7/contents>  
[Accessed 11.04.17]

Lesbian, Gay, Bisexual, Transgender Resource Centre

<https://uwm.edu/lgbtrc/support/gender-pronouns/>  
[Accessed 14.4.17]

McCabe, D. McCleod, F. (2012), **Transgender in the Workplace** New Activity Publications, Northern Ireland

Oxford English Dictionary (2017)

<https://en.oxforddictionaries.com/definition/gender>  
[Accessed 27.01.17]

NHS Choices

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

Personal Demographics Service National Health Applications and Infrastructure Services (PDS NHAIS) (2012) **Interaction Procedure Guide**

[http://webarchive.nationalarchives.gov.uk/20160921135209/http://systems.digital.nhs.uk/ssd/downloads/add-downloads/pdsprocdoc2\\_2.pdf](http://webarchive.nationalarchives.gov.uk/20160921135209/http://systems.digital.nhs.uk/ssd/downloads/add-downloads/pdsprocdoc2_2.pdf)  
[Accessed 11.04.17]

The Gender Trust

<http://gendertrust.org.uk/directory/support-organisations>



[Accessed 09.12.16]

UK Intersex Association

<http://www.ukia.co.uk/>

[Accessed 09.12.16]

Unison (2013) **It's just good care. A guide for health staff caring for people who are Trans**

<https://www.unison.org.uk/news/press-release/2016/01/unison-welcomes-transgender-equality-report/>

[Accessed 03.02.17]

Unison (2016) **Transgender workers' rights**

<https://www.unison.org.uk/content/uploads/2015/05/TowebTransgender-workers-rights.pdf>

[Accessed 03.02.17]

Whittle, S, (2013), **Changing Names and Changing Gender: A guide to UK Law for Organisations, Employers & the Transgender Community**, Press for Change, London

<https://uktrans.info/attachments/article/157/amcechaasd.pdf>

[Accessed 09.12.16]

## **7 Associated Policy and Procedural Documentation**

Employee Relations Policy

Disciplinary Procedure

Equality and Diversity in Employment Policy

Dignity at Work Procedure

Procedure for Supporting Individuals who are Transgender

Procedure for the Use of Chaperones

Recruitment and Selection Policy

Recruitment and Selection Procedure

Withholding Treatment Procedure

## Appendix A

## Abbreviations and definitions

AFAB/AMAB	Assigned female/male at birth.
Cisgender	Someone who identifies with the sex and gender assigned at birth.
Direct Discrimination	Where someone is treated less favourably because of a protected characteristic.
Discrimination by Association	The direct discrimination of someone because they associate with someone with a protected characteristic.
Discrimination by Perception	Direct discrimination where an individual is discriminated against because someone thinks they have a protected characteristic. It applies regardless of whether the person has the protected characteristic or not.
Dyadic	Someone who does not present with an intersex condition.
Gender dysphoria	NHS Choices (2016) defines gender dysphoria as a condition where a person experiences discomfort or distress because there is a mismatch between their biological sex and gender identity.
Gender reassignment	The process of transitioning from one gender to another. To undergo gender reassignment usually means to undergo some sort of medical intervention, but it can also mean changing names, pronouns, dressing differently and living in their self-identified gender. Gender reassignment is a characteristic that is protected by the Equality Act 2010.
Gender recognition Certificate	This certificate enables the individual to apply for a birth certificate.
Indirect Discrimination	Where there is a rule, condition or policy that applies to everyone but disadvantages a particular protected characteristic.
Harassment	Unwanted conduct related to a protected characteristic which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual.
Non-gendered	A person who does not identify with any gender.
Non-binary	A gender identity that is neither exclusively masculine or feminine. Non-binary is a spectrum of gender identities that are not exclusively masculine or feminine—identities that are outside the gender binary. Non-binary identities can fall under

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

**Appendix B Gender Neutral / Gender Inclusive Pronouns**

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

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

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

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

(Ref: Lesbian, Gay, Bisexual, Transgender Resource Centre)

## Appendix C

## Monitoring Matrix

MONITORING OF IMPLEMENTATION	MONITORING LEAD	REPORTED TO PERSON/GROUP	MONITORING PROCESS	MONITORING FREQUENCY
The policy will be monitored by consultation with Trans staff, patient complaints and patient feedback.	Deputy Director of Inclusion, Health and Wellbeing and Social Cohesion	Chief People Officer	Consultation with local Trans groups to capture personal experiences and monitoring complaints.	Engagement with Trans networks in six monthly intervals. Report within the annual Equality Report.
All cases of discrimination and non-compliance with this policy	Deputy Director of Inclusion, Health and Wellbeing and Social Cohesion	Chief People Officer	All formal cases reported in the Annual Workforce Plan	Annual