

CONTROLLED DOCUMENT

Supporting individuals who are transgender (Trans) Policy

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PURPOSE	This policy sets out the Trust's responsibilities as a service provider and an employer for transgender (Trans) people.
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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 The term “Trans” is the preferred term used by transgender people. It is an umbrella term used to cover numerous types of gender identity such as transsexual, transvestite, non-binary bi-gendered or non-gendered. 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 Executive Chief Nurse 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/ze/zie/xe. 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 patients has requested.
- 3.3.4 The patient must be in a same-sex environment of their preferred gender. However, depending how the patient presents, they may prefer not to be placed on a ward of their identified gender. A discussion must take place with the patient who must be asked if they prefer the privacy of a single room, if one is available, but this must not be arranged without their consent.
- 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 of the preferred gender may need to be provided if the patient is undergoing sensitive/intimate examinations. Please refer to 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 transsexual or a transvestite (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 Policy and Procedure.
- 3.3.11 If other patients or the public are discriminatory, they must be reminded that this behaviour will not be tolerated by the Trust. The Trust has a duty under the Equality Act 2010 to foster good relations between individuals who have protected characteristics and those who do not. If the discrimination persists the patient/member of public must be informed that they will be asked to leave the premises. In addition treatment may also be withheld. Please refer to the Trust Withholding Treatment Procedure.
- 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. does the role have a "genuine occupational requirement" to be a particular gender;
 - 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 a later date. Please refer to the Trust Recruitment and Selection Policy and associated procedures.
- 3.4.6 If the patient, discriminating against a member of staff, lacks capacity to understand the consequences of their behaviour, a *Best Interests*' decision will need to be made to try to ensure they still receive treatment but do not continue to breach policy or the law by continuing to be offensive e.g. move the patient who lacks capacity.

4 Duties

4.1 Executive Chief Nurse

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

4.2 Head of Inclusion, Engagement and Wellbeing

The Head of Inclusion, Engagement and Wellbeing 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 Policy 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.

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7 Associated Policy and Procedural Documentation

Disciplinary Policy

Disciplinary Procedure

Equality and Diversity in Employment Policy

Prevention of Bullying and Harassment at Work Policy

Prevention of Bullying and Harassment 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.
Bi-gendered	A person who considers themselves to be both male and female.
Cisgender	Someone who identifies with the sex and gender assigned at birth.
Crossdresser	The act of dressing and presenting as a different gender. One who considers this an integral part of their identity may identify as a cross-dresser.
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 or Non-binary	An umbrella term for all transgender identities in which one does not identify fully with one of the two traditional 'binary' genders (i.e. man or woman). Can include: bi-gender (identifying as two genders at once), gender fluid (fluctuating between different gender identifications), genderqueer ('queering' gender and being neither man nor woman), Two Spirit (a Native American term for gender non-conforming people) etc.
Positive Action	Where an employer can take steps to encourage people from groups with different needs or with a past track record of disadvantage or low participation to apply for jobs.
Protected Characteristics Equality Act 2010	<ul style="list-style-type: none"> • Age • Disability • Gender Reassignment • Marriage and Civil Partnership • Pregnancy and Maternity • Race • Religion or Belief • Sex • Sexual Orientation
The Equality Delivery System (EDS)	A tool kit to help National Health Service (NHS) organisations improve the services they provide for their local communities, consider health inequalities in their locality and provide better working environments, free of discrimination, for those who work in the NHS. The purpose of the EDS is to drive up equality performance and embed it into mainstream NHS business.
Transgender ('Trans')	<p>The term "Trans" is the preferred term used by transgender people. It is an umbrella term used to cover numerous types of gender identity such as transsexual, transvestite, non-binary, bi-gendered or non-gendered.</p> <p>Transgender people are people who have a gender identity, or gender expression, that differs from their assigned sex. Gender is defined by the Oxford English Dictionary (2017) as the state of being male or female (typically used with reference to social and cultural differences rather than biological ones).</p> <p>Their gender identity may not fit neatly into societal norms regarding gender, for example they may feel they are not totally one gender or the other; they may not identify with the assigned birth gender or they may not identify with any gender at all.</p>
Transition	A person's process of developing and assuming a gender expression to match their gender identity. Transition can

	include: coming out to one's family, friends, and/or co-workers; changing one's name and/or sex on legal documents; hormone therapy; and possibly (though not always) some form of gender confirmation surgery.
Victimisation	Where someone is treated badly because they have either made or supported a complaint under the Equality Act 2010.

Appendix B Gender Neutral / Gender Inclusive Pronouns

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

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

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.	Head of Inclusion, Engagement and Wellbeing	Executive Chief Nurse	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	Head of Inclusion, Engagement and Wellbeing	Executive Chief Nurse	All formal cases reported in the Annual Workforce Plan	Annual