



Supporting gender diversity in the University Environment – Gender Reassignment Guidance Document

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RELEVANT DOCUMENTS

LJMU Equality and Diversity Policy

Revised LJMU Equality and Diversity Objectives and Action Plan (2016 – 2020)

RELATED POLICIES & DOCUMENTS

LJMU Equality and Diversity Policy

Revised LJMU Equality and Diversity Objectives and Action Plan (2016 – 2020)

LJMU: Supporting gender diversity in the University environment – Guidance Document

1.0 The University's Commitment

The University is committed to supporting trans people in its community, including those who are non-binary and non-gender (see Terminology in Annex A). We recognise that people are able to work and study better if they can be themselves in the workplace and in education. Welcoming all trans people, whether they are members of staff, students, visitors, contractors or clients, will help to create an ethos of inclusion and equality within the diverse community of the University. With regard to trans people, the University recognises that: "The expression of gender characteristics that are not stereotypically associated with one's assigned sex at birth is a common and culturally diverse human phenomenon that should not be judged as inherently pathological or negative".¹

2.0 Legal obligations and Good Practice

The University publishes its Equality and Diversity policies, objectives and associated action plans, and ensures that these policies also apply to those under contract to provide services to us, or on our behalf. All staff and students have ready access to these policies.

2.1 The Equality Act 2010 (EqAct)

The University undertakes to fulfil its obligation under the EqAct with regard to those who are protected because they have the characteristic of 'gender reassignment'. Those having the characteristic are described in this document as trans people. The University will ensure that they are protected from unlawful discrimination (direct and indirect), harassment and victimisation as laid down by the Public Sector Equality Duty (PSED) under the EqAct. The University will

¹ World Professional Association of Transgender Health (2011) and Good Practice Guidelines for the assessment and treatment of gender dysphoria in adults <http://www.rcpsych.ac.uk>
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also meet this duty by offering equal opportunities to trans people, and by fostering good relations between them and others, thus ensuring their inclusion in the social life of the University. The University recognises that, in the interests of fairness and inclusivity, and as matter of prudence and good practice, the gender reassignment characteristic should be regarded as covering the wider group of gender diversity under the umbrella term, trans. This will cover those who are intersex, non-binary or non-gender as long as they made gender affirming changes that moved them away from their birth sex. In order to be protected under the EqAct, no medical treatment is required.

The term gender reassignment is not popular in the trans community; the term 'transition' will be used in this document to indicate that a person has undertaken some part of a social process, which in some instances may be quite modest. (see Annex A: Terminology). Protection against discrimination also applies to those who are perceived to be trans. Others may be protected by association with a trans person, such as partners, spouses, family members or carers.

[The case studies used in this document are illustrations of how the law and good practice may be put into effect. They are not necessarily real events and are not examples of John Moore's University's practice.]

2.2 Direct discrimination

Direct discrimination occurs when a person is treated less well, because they have a protected characteristic (or are perceived to have that characteristic or are associated with a person who has the characteristic), compared with a person who does not have that characteristic.

Case study

Sally is a University lecturer. She transitioned to live as a woman during the summer vacation. On her return to work, one of the other lecturers in her faculty objected to trans people on religious grounds and asked that Sally be transferred.

This would be direct discrimination. 'Religion or belief' combine to form a protected characteristic under the Equality Act. Personal religious views or beliefs must be respected; however, these may not be used to discriminate against others. The lecturer was told that, if he intended continuing to work at the University, he must agree to work alongside Sally. Note that the protected characteristics under the Equality Act are in alphabetical order, to indicate that they are all of equal standing; one cannot take precedence over another.

2.3 Indirect discrimination

Indirect discrimination occurs where a rule or policy is neutral in its application to the majority of people but has negative consequences for a protected person or group.

Case study

Sid approached the manager in the Student Administration Team three weeks into the start of their (Sid's pronoun) second year at University, to explain that they had been struggling for a couple of years with their identity. They were actually non-binary and wanted to change their registered name from Mary to Sid, and their pronouns, from 'she', 'her' to 'they' 'their' and their title to Mx. They intended this change to be permanent and had already obtained a new Driving Licence in the name of Sid Jones.

The Student Administration Manager said that the University's protocols did not allow for such changes to be made after the start of term; it disrupted their record keeping and would have to wait until the end of term. Sid argued that this was unacceptable and asked why it would be any easier to do it then, rather than now. The manager said it was 'inconvenient'. Sid pointed out that, according to the Equality Act, the decision to deny his request must be a 'proportionate means of achieving a legitimate aim'. Delaying the changes to Sid's record, which would result in ongoing embarrassment to them, would adversely affect their mental health and their ability to focus on their studies. This would be disproportionately uncomfortable for Sid (and to any other trans people in this situation) since the aim of avoiding 'inconvenience' could not be regarded as a sufficient reason for refusing their request. The manager relented and agreed to make the changes. As a result of Sid's situation, the manager realised that the usual protocol needed to be amended because it discriminated, indirectly, against trans people. This prompted the team to examine all their protocols to ensure that these did not inadvertently discriminate against trans or other protected groups.

2.4 Harassment

Case study

Following his transition to live as a man, Mark started to use the University's fitness centre. The changing area had curtained cubicles, so he was able to change in private. However, a small group of young men started making comments between each other but deliberately within Mark's hearing. They repeatedly and deliberately used the pronoun 'she'. At first, he ignored it, but

over the next few weeks it grew worse, and the sniggers and comments started as soon as he entered the changing room.

Mark eventually reported it to the university sports instructor. The next time Mark entered the changing room, the instructor was close behind him and heard the comments. He challenged those making the comments, and they said it was just 'banter'. The students' behaviour was reported, and they were warned that their behaviour was 'harassment', and unlawful. They were denied access to the gym for the remainder of the term, required to give written apologies to Mark. This is a robust and appropriate response to harassment.

In addition to the inappropriate behaviours of the young men, the use of the pronoun 'she' was extremely offensive. **In general, using the wrong pronouns, names and titles, if deliberate and, especially if repeated, amounts to harassment.** It is emotionally damaging to the individual. A person making occasional, unintended slips in the early days of an individual's transition should apologise and make a great effort not to repeat the error.

2.5 Victimisation:

Case study

Joan transitioned during the vacation. She was queuing at the cafeteria when she heard Sarah, one of the people serving, say to her colleague "you take this one, I'm not serving that tranny". Joan told the cafeteria manager what had happened. She responded, "How horrible for you. Why don't you try that little coffee shop on the other side of the campus?"

Victimisation occurs when someone is treated badly as a direct result of having complained, either themselves, or when someone else has complained on their behalf, about discriminatory treatment under the EqAct. The response of the manager would amount to victimisation, because instead of tackling the discriminatory behaviour of the cafeteria employee, Joan was effectively 'punished', by being told to go elsewhere. The cafeteria is a contracted service, but the University requires that such services abide by the equality and diversity policy of the University. This is clearly stated in the contract. The manager and her staff were warned that they were in breach of their contract which would be terminated if this happened again. With Joan's agreement, a meeting was arranged between her, the manager and Sarah. Sarah apologised for her comment.

2.6 Human Rights Act

The Human Rights Act 1998 (HRA) (Article 8) ensures the right to respect for private and family life, home and correspondence. This includes, for example:

letters, telephone calls, text messages and emails. The HRA also protects people from degrading treatment (Article 3). Article 14 is also important; it does not stand alone, but it ensures that all the other Articles under the HRA are delivered in a non-discriminatory way.

2.7 The Gender Recognition Act, 2004 (GRA),

The Gender Recognition Act allows those who have changed their gender role and expression permanently, and who have already lived for two years according to their affirmed gender (after transition), rather than their birth sex, to obtain a gender recognition certificate (GRC). This means that they have their new gender status, 'for all purposes'; the person automatically qualifies for a birth certificate if the birth was originally registered in the UK. If a person has applied for, or has already obtained a GRC, information about the person's gender history is described as 'protected information', so it must not be passed on to anyone without the permission (preferably written) of the person concerned. Under GRA s22(4) if member of staff discovers, in the course of doing their job ('in an official capacity') that a work colleague, or a student, is trans or has a trans history, and the staff member shares that information with another person, without obtaining the trans person's consent, this risk being an unlawful act. There are a few exceptions to this rule, but these are not likely to be applicable in employment and education situations. A GRC is not needed in order to change one's name, or pronouns. Or the way one dresses at work⁵

Only about 5,000 people have GRCs.² Not having a GRC must not be used to disadvantage a trans person. They still have a right to absolute confidentiality. Asking to see a GRC is not good practice and may be regarded as harassment and an invasion of privacy. It is therefore important to treat all trans people as though they have the protection of a GRC, and therefore regarding their trans history or status as 'protected information'. Birth certificates should also not be requested. Identification can usually be provided by passports or driving licences, which may be obtained by producing a doctor's letter.

2.8 Data Protection:

All IT records of the individual's personal life and medical history ("sensitive personal data") must be secured in line with the Data Protection regulations

² The GRA was enabled in 2005. The date of writing is July 2017. The ~5,000 figure therefore represents 12 years of applications. The numbers will continue to rise. Improvements in the language and scope of the Act may occur owing to the work of the Woman and Equalities Select Committee following its Inquiry (2017)

including password-protection, and should be “kept for no longer than is absolutely necessary”. Any named person who needs to access this private information must still ask permission of the individual concerned, unless there is an emergency situation and the individual is unable to give permission. Employers should note that an individual who suffers a detriment by reason of any contravention by a data controller of any of the requirements of the DPA is entitled to compensation from the data controller for any resultant damage.³

3.0 Training and awareness

Social interactions may occur between trans individuals and other people on our campus. Any improper language or behaviour can cause lasting disadvantage to the person towards whom the behaviour is directed. Therefore, training across the board, will be essential. This may involve professional trainers, local trans groups, and e-learning resources.^{4,5} The University expects all its students and staff to be aware of its respect and inclusion policies, and its zero tolerance towards bullying and harassment. In addition to the contribution made by members of People and Organisational Development (POD), Equality, Diversity and Inclusion (EDI) Team, Student Advice and Wellbeing Team and the Student Administration Team, we expect our academic staff and professional services managers to be pro-active in advising students and staff regarding the expectation of the University with regard to equality, diversity and inclusion.

The University is responsible for:

- providing training for staff and students about how to interact respectfully with trans people. It is important to ensure that all members of staff are familiar with the policy regarding transition and support for trans, non-binary and non-gender staff members and students, and fully understand the impact of legislation, especially the Equality Act. If further training is required, this should be organised and undertaken.
- checking existing policies and protocols and changing them where they might disadvantage a trans, non-binary or non-gender person in order to avoid ‘indirect discrimination’;
- providing a policy for the transition of trans staff and students;

³ www.gires.org.uk

⁴ Elearning at <http://www.gires.org.uk/e-learning>

⁵ Support for gender variant children and adolescents NHS, bit.ly/GIRESelearn (for professionals and families)

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- monitoring the diversity of staff and students should include trans, non-binary and non-gender identities;
- running staff training and celebratory events to support trans staff and students e.g. LGBT History month;

4.0 A Press statement

A press statement should be released if the need arises. Staff who are likely to receive incoming calls from the media should be briefed to deal with such calls. Intrusive questions should not be answered. In most circumstances it is only necessary for them to indicate that an equality and diversity statement is on the website (home page) and will be adhered to by the University. This includes stringent privacy and respect measures. In reality, the transition of a student or a non-academic staff member is unlikely to excite interest, but senior, and sometimes quite high-profile academics, might.

Equality statement

Our University is proud of its commitment to equality and diversity among its staff and students. We support everyone in our community, we treat people with respect and have due regard for their privacy and wellbeing, regardless of age, disability, gender reassignment, marital/or civil partnership status, pregnancy/maternity, race/ethnicity, religion or belief, sex or sexual orientation.

A bland statement should be prepared, with the agreement of the person concerned. Usually, this will not identify the individual. If the identity of the individual becomes known to the media, the University must give no details to the press, unless expressly permitted by the individual concerned. Where this does occur, a risk assessment should be undertaken immediately. The University should consider involving the police and the Press Complaints Authority where relevant.

5.0 Transition of a staff member or student - overview

Trans people are often nervous about revealing the fact that they intend to transition, so it is important that when they do, the news is welcomed. It is also important to understand that being trans does not denote a mental illness,⁶ and a change of gender role and expression is not a life-style choice. The person's gender identity is not changing, although in some cases it maybe fluid. External characteristics are re-aligned with each individual's identity. Some individuals make relatively small changes: names, pronouns, titles, hair style, for instance,

⁶ Reed T & Diamond M (2016) Biological correlations in the development of gender dysphoria, The Lancet
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while others need more extensive, possibly medical, help to support their transition.

5.1 A few Do's and Don'ts

If a person tells you that they are trans and they wish to transition: first, be flattered that they have chosen to speak to you, because this is a big step for them; second, allow the person to lead the conversation.

Don't ask too many questions, particularly personal ones:

For instance, **don't say**:

“Are you sure; have you really thought about this?”

They will probably have thought of little else for years! Bear in mind that, if the person is a member of staff, they may have lived for a long time with this discomfort. Years of repression of the person's gender identity is likely to have contributed to a deteriorating mental state. Transition and associated treatments are therefore life-enhancing and even life-saving.

Never ask about treatment unless they raise it. Don't say “are you on hormones?” or “Do you intend to have surgery?”

None of that is relevant, it's not polite, and if they are only now changing their gender role and expression, they will not have been able to access surgery anyway.

Do ask, “How can I help?”

“Do you have any support from colleagues (or fellow students) within the University?”

“Do you have family support?”

“Do you have local support, near your home?” ⁷

⁷ National database of geographically arranged support groups at www.tranzwiki.net
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Tread carefully. The person may open up and give you information, or it may be better to make another date to meet and chat. Allow the person to move at their own pace.

The first step is to talk to the individual and find out how they want to handle their situation moving forward. As far as possible, plans will be made jointly, following the individual's wishes, to ensure that the transition is successful.

6.0 Transition of a student

A student intending to transition is likely, in the first instance, talk to a person they trust. This may be a tutor, or a friend, who can support the student in contacting the relevant personnel. For example, Equality, Diversity and Inclusion Team, Student Administration Team or the Student Advice and Wellbeing Team. However, confidentiality is paramount, and nothing should be shared without the express permission of the student.

It is important that the University, at this time, emphasises the zero tolerance towards bullying, and warns that any such behaviour would be taken seriously.

6.1 The Memorandum of Understanding (student)

The Memorandum of Understanding (MoU) is a confidential document. It does not represent a binding and unchangeable arrangement, but rather a commitment to engage with, and support, the student at all stages. The MoU itself is a sensitive document that must not be accessible to those not immediately involved in drawing it up. Hard copies must not be accessible to unauthorised personnel. Entries into IT systems must be password protected to prevent unauthorised persons coming across this document, or any other document that would give away a person's gender history.

The initial meeting and the drafting of the MoU may be undertaken by a member of People and Organisational Development and/or the Equality, Diversity and Inclusion Manager and, possibly a member of Student Advice and Wellbeing and/or Student Administration. The student should be offered the support of a friend, possibly a Student Union member, the student's programme leader, personal tutor, or other staff directly responsible for the student's learning. However, it's important not to over-face the student with a roomful of people

unless they agree. A person from one of these areas, or any other person chosen by the student may act as a mentor or 'buddy' to whom they can turn in the first instance, to provide immediate support when required.

In the early stages the MoU may be reviewed at agreed intervals, and possibly at the beginning and end of each term or at any time that the student asks for this to be done. However, it should not be necessary to continue this level of oversight beyond the first couple of terms, unless problems arise and changes need to be made. Prior discussions will pinpoint any likely problem areas. Steps will be taken to avoid these, rather than dealing with them after they have arisen. Action must always be with the consent of the student.

6.2 Timing (student)

Students may transition at any time by changing their gender expression and adopting a name and pronouns that accord with their gender identity. Sometimes this is achieved over a vacation period and the student returns with all these things in place. No official evidence is needed for these social changes to be made. A simple signed statement of intent is sufficient for this to be facilitated. Timing of doctor's or other appointments associated with transition may be organised out of term time, but treatment in the NHS is unpredictable. Students may find they can't always avoid appointments during the term. They may need help to catch up any time missed.

It is not usually necessary for students to take time out in connection with hormone therapy. Top (chest) surgeries for trans men will require recovery times which will be estimated by the surgical team. It is unlikely that lower (genital) surgeries would be undertaken by a student, as these do require lengthy recovery times. Referrals for lower surgeries are not, in any case, made until at least a year of living according to the affirmed gender, and associated treatments and assessments have been carried out. In practice the waiting times are much longer. Many trans people do not choose to have lower surgery. However, if they do need to have a prolonged absence, it may be necessary for the student to speak to their Tutor or Degree Programme Leader about suspending studies.

6.3 Changing records and confidentiality (student)

Changing pre-existing records and certificates is important for the student because they will, for instance, need evidence that does not reveal their gender history when providing documentation for future employers. The University will

be proactive in facilitating this where exam boards are concerned. Evidence such as a doctor's letter, or a Deed Poll should suffice for updates of documents to be made. Do not ask for a Birth Certificate or GRC. When updating student registration, care must be taken to avoid highlighting the student's transition when making a link between the old and the new registration. Confidentiality is essential.

In most cases it is imperative that previous names and gender markers cannot be accessed inadvertently, so all previous records must be either up-dated, replaced, or concealed. Information about a person's previous gender status is 'sensitive', and should be "kept for no longer than is absolutely necessary". Failing to conceal the individual's gender history would risk breaching the Data Protection Regulations, the Human Rights Act and the Equality Act.

A revised student card should be issued; user names and passwords should be changed if necessary. If there is a delay in changing details, a student may use the 'known as' field in the interim.

In a few cases, extra care must be taken where, for cultural reasons, which may be more likely to occur in the case of students from overseas, names and pronouns used at the University should not be used when communicating with the student in their own home. Revealing a students' change of gender status to their families might, in some instances, put them in danger. A discussion should be undertaken with all students who transition, to ascertain whether or not communication outside the university, should be in the original name.

6.4 Informing others (student)

The extent to which other students and academic staff will need to be informed will vary with the individual. As a general rule, specific information about the transition of a student should be limited to the smallest number possible. If the student interacts with only a small group of other students, it may be only this group that needs to be told. It will be up to the student concerned to indicate who they want to be told, and who will tell them. Students are now much more aware of trans issues, and will usually take this information in their stride. It may not be necessary for any special arrangements to be made, unless the student wishes, for instance, a person from the EDI, Student Advice and Wellbeing or Student Administration Team to talk to the other students. This provides an opportunity for emphasising the University's zero tolerance for bullying. However, the student may choose to do it themselves. It can also be done by sending out an email to all the relevant people. There are several options from which the student can choose.

6.5 Toilets and changing facilities (students and staff)

Where facilities are designated 'men', 'women' or similar, a person who has transitioned, that is changed their gender role and expression to bring these in line with their gender identity may, from that moment, use the toilets that accord with their gender identity (not the sex assigned at birth). University buildings may also have unisex facilities, but trans people must not be required to use these unless they choose to.

Changing facilities may also be accessed in the same way in accordance with the individual's gender identity. The University will ensure that sufficient privacy exists in all facilities so that individuals, trans or otherwise, can be accommodated.

7.0 Transition of member of staff – Memorandum of Understanding (MoU)

A member of staff who transitions will follow a similar path to a student in that situation. The staff will need to speak personally to their line manager. In order to agree a Memorandum of Understanding, those attending may include a POD representative, an Equality and Diversity Team representative and possibly a union representative if required. A person undergoing transition as an employee of the University, must engage with the POD department to discuss Pensions and Insurance, both of which may be affected. If there is a requirement for a record to be kept regarding the sex on the birth certificate, access must be strictly limited to those who 'need to know' because their specific duties are involved. They must maintain complete confidentiality. Revealing a person's previous gender details could lead to disciplinary action.

7.1 Timing (staff)

In the case of staff, particularly those who are academics involved in day to day interactions with students, it is helpful if social transition does not coincide with term time. However, if this is unavoidable, the University will make arrangement to accommodate this.

7.2 Time off for treatments associated with the transition of employees are specifically protected under the Equality Act 2010. Timescales may change over time, and be unpredictable if treatment is in the NHS. Consultations and hospital appointments may require full days away from work in addition to any time required for surgical procedures. Flexibility should be allowed for individuals to undergo treatment, especially for those being treated in the NHS, where waiting times are very long.

It is not usually necessary for people to have time off work in connection with hormone therapy. Top (chest) surgeries will generally require shorter recovery times, than lower (genital) surgeries, but there will be great variation depending

on the individual, their surgeon, and the actual surgery carried out. So the trans person should obtain an estimated time, from the surgical team. Lower surgeries are not scheduled until, at least, the end of the first year of treatment in any event. Facial hair removal and speech and language therapy may also necessitate some agreed time off work.

7.3 Changing records and confidentiality (staff)

Changing records for staff involves a similar process as for students. In terms of educational certificates, it is vital that these are changed, so that a person seeking a job elsewhere would have the necessary documents in their new name, so that any future employer would not learn of their past.

POD will need to be informed regarding insurance policies and, in some cases, pensions. A person or persons in POD will be specifically allocated to dealing with this individual's documentation. Any documents that indicate a change of gender status are 'sensitive', and must be treated as completely confidential. IT documents must be password protected, and any paper documentation must be in double sealed envelopes with a named person on the envelope who may have access if necessary. Unless circumstances prevent it, the individual must still be asked for their permission, and be told the reasons for accessing them. This documentation should be locked away separately from other files. In cases where DBS checks need to be updated, the sensitive case process should be used.⁸

When providing references for a former member of staff who has transitioned, only the current name, pronouns, gender status, and title must be used.

7.4 Informing others (staff)

Decisions about who needs to know about a member of staff undertaking transition, will be taken by the person and the manager. At some stage, the relevant students will need to be notified. Academic staff, for instance, may choose to inform their students personally, or a letter could be sent by the University to the relevant students. It may be necessary to notify other academic institution with which an academic who undertakes transition, may have links.

As mentioned above an allocated person in POD will need deal with the impact of transition on insurance and pensions. Staff who work for instance, in

⁸ Disclosure and Barring Service: Phone: 0151 676 1452

Email: sensitive@dbs.gsi.gov.uk

Address: The Sensitive Application Team

Customer Services, PO BOX 165, Liverpool, L69 3JD

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maintenance, catering, or cleaning will probably only wish the group of people they work with on a daily basis to be informed.

It may be necessary for a member of staff who transitions to have contact with the medical personnel, possibly a GP and nurse, who look after the university population. Liaison between the staff member's GP and the University's GP may be required. Any doctor needing guidance can access the e-learning on the Royal College of GP website⁹, and the UK Good Practice Guidelines;¹⁰

7.5 Occupational health (staff)

The role of Occupational Health (OH) will be to advise the University on fitness for work issues. This includes providing appropriate advice on any medical issues which may impact on an individual's ability to carry out the full scope of the job.

Generally speaking, trans people are not more at risk than their work colleagues. Where the job is physically demanding, the University should ensure that its health and safety precautions include ongoing Risk Assessments for trans employees. Trans women may lose upper body strength when having hormone treatment. Before having breast surgery, trans men wear breast binders which restrict their movement and may cause back problems. Assessments should take account of these possible risk factors which may affect staff providing services such as catering, building and gardening maintenance.

Following any surgery, advice may also be needed about any temporary adjustments to help those returning to work, who may not, at first, be able to undertake all aspects of their former role. Trans men may have chest reconstruction surgery before, or around the time of, role change. As mentioned above, a complication for trans women is that facial hair removal is a very long process, and on each occasion (depending on the method used) they may first have to have two days' beard growth.

A few occupations may involve an Occupational Requirement (the work to be performed only by a person of one specific sex). A move to another job may be advised. Trans people must not lose their jobs because of this. Other existing staff may be able to do the task where the OR applies. Trans people with GRCs must be regarded as being of the post-transition gender status for the purposes

⁹ [http://elearning.rcgp.org.uk/gender variance](http://elearning.rcgp.org.uk/gender%20variance)

¹⁰ <http://www.rcpsych.ac.uk/usefulresources/publications/collegereports/cr/cr181.aspx>

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of ORs. Others who do not have GRCs, may be just as suitable. Common sense should prevail.

Occupational Health cannot seek to replace the specialist medical advice, assessment and support required by individuals who are considering gender reassignment. However, OH staff are able to offer confidential support and counselling for those who are suffering emotionally at what can be a distressing period of their lives.

Any individual referred to Occupational Health can expect the issues to be dealt with in the strictest confidence, as would be expected from any other practitioners providing care.

7.6 Insurance Matters (staff)

The University as the employer is advised to inform their underwriters, in strict confidence, if they know of a trans employee's history, when registering them for insurance and benefits, because some insurers automatically invalidate a policy if a major fact such as gender reassignment is not disclosed. The employee must be told that the underwriters will be informed. If the employer is unaware that an employee has undergone transition in the past, the employee has the responsibility to disclose their trans history to the relevant department to avoid the possibility of invalidating their insurance. If the individual were to be involved in an accident at work, the individual themselves would be personally liable. Therefore, the insurer's conditions in this matter must always be made clear to all employees, because it may not be known that a person has a trans history. Once this information is known, the process for entering it into the insurance policy must not be visible to others, and the person(s) possessing that information must keep it completely confidential.

7.7 Pensions and Retirement

The University, as the employer, is advised to inform their underwriters, in strict confidence, if they know of a trans employee's history, when registering them for insurance and benefits, because some insurers automatically invalidate a policy if a major fact such as gender reassignment is not disclosed. The employee must be told that the underwriters will be informed. If the employer is unaware that an employee has undergone transition in the past, the employee has the responsibility to disclose their trans history to the relevant department to avoid the possibility of invalidating their insurance. If the trans person were to be involved in an accident at work, the individual might be personally liable.

Therefore, the insurer's conditions in this matter must always be made clear to all employees, because it may not be known that a person has a trans history.

Once this information is known, the process for entering it into the insurance policy must not be visible to others, and the person(s) possessing that information must keep it completely confidential.

ANNEX A - TERMINOLOGY – SUPPLIED BY GENDER RESEARCH AND EDUCATION SOCIETY (GIRES)

1. Introduction

Terminology in the '**transgender**' field (see below) is varied and constantly shifting as understanding and perceptions and awareness improves. The terms described below may change in their usage and become outdated. **Gender diversity/ gender variance/ gender nonconformity** are general terms that cover people whose gender identity and/or expression fall outside typical cultural gender expressions.

The concept of a binary social construct that recognises only men or woman fails to recognise that **“the expression of gender characteristics that are not stereotypically associated with one’s assigned sex at birth is a common and**

culturally diverse human phenomenon that should not be judged as inherently pathological or negative".¹¹

2. Gender Identity

Gender Identity, describes the psychological identification of oneself, typically, that is, in the majority of the population, as a **boy/man** or as a **girl/woman**, known as the '**binary**' model. There is a presumption that this sense of identity will be consistent with the, respectively, male or female sex appearance. Where sex appearance and gender identity are congruent, the terms **cisgender** or **cis** apply.

However, some people experience a gender identity that is somewhat, or completely, inconsistent with their sex appearance. Historically, there has been greater recognition of those who, having been **assigned male, identify as women**; or having been **assigned female identify as men**. However, many more do not experience these binary gender identities: man or woman, but regard themselves as gender neutral, or as embracing aspects of both man and woman and, therefore, falling on a spectrum between the two, or outside the spectrum. People have the right to self-identify, and many reject binary tick-boxes, and describe themselves as **non-binary**, or **gender queer**, and use terms such as **pan-gender, poly-gender, third gender, neutrois, gender fluid** (fluctuating). Some reject the gender concept altogether and regard themselves as **non-gender**.

3. Pronouns

Those who change their gender expression from man to woman or vice versa, will change their pronouns from 'he' to 'she', 'him' to 'her, and vice versa. But non-binary people usually choose more neutral pronouns such as: they, per, zie, fey. Titles Mx or Pr may be preferred to Mr, Mrs, Miss or Ms. Using the name that a person was given at birth, after they have transitioned (see below) is unacceptable, and may be referred to as '**dead-naming**'.

4. Sex

Sex refers to the biological **male/female** physical development – the phenotype. In an infant, the sex is judged entirely on the genital appearance at birth, but internal reproductive organs, skeletal characteristics and musculature, and the brain, are all sex differentiated – not necessarily completely consistently. Other factors such as karyotype (chromosomal configuration, typically XX=female; XY=male) are seldom tested unless a genital anomaly is present. There is a presumption that an apparently female infant will identify as a girl, and vice versa.

5. Gender role and expression

¹¹ World Professional Association of Transgender Health (2011) Good Practice Guidelines for the assessment and treatment of gender dysphoria in adults <http://www.rcpsych.ac.uk>

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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. A significant departure from stereotypical gender expression often causes anxiety and discomfort in those who witness it. Their own discomfort may be reflected back on gender nonconforming individuals, causing a continuous source of stress in social situations. This can be particularly challenging for those who identify as non-binary or non-gender, and whose gender expression does not fit either the typical 'man' or 'woman' classification.

6. Gender incongruence/gender dysphoria

The mismatch between the assigned sex, and the gender identity may be described as **gender incongruence**. This term may be used to replace 'transsexualism' (see below). The discomfort associated with this incongruence is described as **gender dysphoria**. This arises at two levels: social interactions feel inappropriate, and sometimes the sex characteristics feel alien, since these contradict the inner sense of gender identity.

It is now understood that 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 in some individuals, the sex differentiation of parts of the brain is inconsistent with other sex characteristics, resulting in individuals having a predisposition to develop a gender identity that is not typically associated with their assigned sex.

7. Transsexual

The terms **transsexual** and **transsexualism** are now generally considered old fashioned, and are only likely to be seen in legal and medical documents. Even there, these terms are gradually being replaced with more acceptable terminology, such as gender incongruence, transgender, and trans (see below). The term transsexual is mainly used very specifically for those whose identity is at the opposite end, or close to the opposite end of the gender spectrum, from their assigned sex. In law, a transsexual person is someone who 'proposes to undergo, is undergoing or has undergone a process (or part of a process) of gender reassignment' (Equality Act 2010). For most this involves modifications of gender role and expression, as well as names and pronouns. Some, in addition, choose medical intervention to adjust the appearance so that it aligns with the gender identity. A 'part of a process' may also be undertaken by those identifying as non-binary or non-gender which may provide them with the same protection under the Equality Act, as for trans binary people. These changes may alleviate much or all of the discomfort previously experienced.

The word **'transsexual'** should be used as an adjective, not a noun. It is, therefore, never appropriate to refer to an individual as 'a transsexual', or to transsexual people, as 'transsexuals'. The abbreviation **'tranny'** is also unacceptable.

8. Transgender

'Transgender' has had different meanings over time, and in different societies. Currently, it is used as an umbrella term describing all those whose gender expression falls outside the typical gender norms. It is often the preferred term for those who change their role permanently, as well as others who, for example, **cross-dress** intermittently for a variety of reasons including erotic factors (also referred to as transvestism). Those who live continuously outside gender norms, sometimes with, and sometimes without, medical intervention are covered by this term. There is a growing acknowledgement that although there is a great deal of difference between say, drag artists and people who change their role permanently, there are nonetheless areas in the transgender field where the distinctions are more blurred; for example, someone who cross-dresses intermittently for some years, may later change fully to the opposite gender role. Non-binary and non-gender identities also fall under this umbrella term.

9. Trans men and trans women

The expression **'trans'** is often used synonymously with 'transgender' in its broadest sense. However, in relation to the individuals concerned, the abbreviated version, 'trans' is more often used. Recently the asterisk has become an additional symbol of inclusion of any, and all, kinds of trans, non-binary and non-gender presentations – hence trans* person. Many regard the asterisk as redundant, as it adds nothing to the other inclusive terms. **'Trans men'** are those born with female appearance but identifying as men; and **'trans women'** are those born with male appearance but identifying as women. The terms may also be used to imply a direction of travel, towards a more masculine or feminine gender expression, rather than a complete transformation of a person's gender status. People in this situation may also describe themselves as **'trans masculine'** or **'trans feminine'**. Many trans people, having transitioned permanently, prefer to be regarded as ordinary men and women. In these cases, where it becomes essential to refer to their pre-transition status, the phrase **'woman (or man) of trans history'** may be used.

10. Transition

Transition is the term used to describe the permanent full-time adaptation of the gender role in all spheres of life: in the family, at work, in leisure pursuits and in society generally. A few people make this change overnight, but many do so gradually over a period of time, changing their presentation intermittently, and sometimes while undergoing early medical interventions such as hormone therapy. Transition does not

indicate a change of gender identity. The person still has the same identity post transition; the changes are to their gender role, gender expression and sometimes their sex characteristics, to bring these in line with their identity. A period of 12 months living full-time in the gender role that is congruent with the gender identity is currently required before genital surgery is undertaken. Transition is more usually used in respect of binary identified trans people. Transition in non-binary individuals is more likely to be a shift in gender presentation, rather than a complete change of role and expression; it may or may not be supported by medical intervention.

11. Affirmed Gender

The process of bringing the gender role and appearance into alignment with the gender identity, 'affirms' that identity. Thus the term 'affirmed' gender, is now becoming more common in describing the post-transition gender status. 'Affirmed' should be used in preference to 'acquired'; the latter is the language of the **Gender Recognition Act**, and is more appropriately used to describe the acquisition of a **Gender Recognition Certificate** and new Birth Certificate (see below).

12. Gender affirming treatment

Those undergoing transition permanently usually have gender affirming treatment that includes hormone therapy and often surgery to bring the secondary sex characteristics: breasts and genitalia, more in line with the gender identity for both trans men and trans women. Such surgery is sometimes referred to as **gender (or sex) reassignment** surgery. The term '**sex change**' is not considered appropriate or polite. Trans women may have Speech and Language therapy, and facial hair removal treatments, surgeries such as facial feminising and body contouring may be chosen, but these surgeries are usually not provided on the NHS.

13. Intersex conditions

There are a number of intersex conditions (renamed Disorders of Sex Development – a clinical description which many in the UK refuse to adopt). In some intersex conditions, the appearance at birth is atypical, being neither clearly male nor female. The sex (male or female) assigned, and the anticipated gender role (boy or girl) assumed at that time, may not be consistent with the core gender identity and may, therefore, result in a need to change the gender role at a later stage. In addition, some of these individuals may have had surgery neo-natally to create – usually – a female appearance. This surgery may lead to a poor outcome, since the individual may, in fact, identify as a boy. This occurs in a minority, but nonetheless significant, number of individuals treated in this way. Surgical intervention before the individual is able to give informed consent is now regarded as unethical and is considered unlawful in some jurisdictions.

Inconsistencies in development may be associated with atypical sex chromosomes such as Klinefelter syndrome (XXY), Jacob's syndrome (XYY), or atypical

combinations of 'X' and 'Y', such as XXYYY, XYYY and so on, including mosaicism (more than one chromosomal configuration in the same individual). Genetic anomalies that are particularly associated with unusual genital appearance are: Androgen Insensitivity Syndrome, Congenital Adrenal Hyperplasia, 5 α reductase or 17 β Hydroxysteroid Dehydrogenase (HSD) deficiencies. Most intersex conditions, are associated with unusual pre-natal hormone levels. Other conditions such as Cloacal Extrophy may be included in this group since babies with this condition may have poor genital development, which has led to male (XY) babies being surgically assigned as female and raised as girls. This strategy failed more often than it succeeded since the majority identified as boys.

14. Sexual orientation

Sexual orientation is a separate issue from gender identity. Sexual orientation is associated with the sexual attraction between one person and another. This is quite different from the internal knowledge of one's own identity. Trans people may be gay, straight, bisexual or, occasionally, asexual. Their sexual relationships may remain the same through the transition process or, occasionally they may shift. So a person who is living as a man, and is in a heterosexual relationship with a woman may, having transitioned to live as a woman, continue to be attracted to women and seek a relationship with a woman – or – may be attracted to men, and therefore seek a relationship with a man. Sometimes trans people make lasting relationships with other trans and non-binary people, so the possibilities are many and varied, and do not necessarily fit comfortably into typical categorisations of sexual behaviours. Those who remain in a long-term relationship, despite one partner having transitioned cannot be categorised by any existing terminology, since the sexual orientation of the non-trans partner does not change; the orientation of the trans partner may or may not shift, as described above. Sometimes, for clarity, the terms: **androphylic** (attracted to men); and **gynaephylic** (attracted to women) may be used.

15. Gender Recognition Act (2004)

The Gender Recognition Act (GRA) became effective in 2005. Currently (2017) the gender recognition certificate (GRC) can be obtained by those who can demonstrate that they have lived for at least two years in their affirmed gender, and that they have a diagnosis of 'gender dysphoria'. Those whose births were registered in the UK qualify for a new birth certificate. Those who are in a pre-existing marriage, same-sex marriage or civil partnership, are obliged to change these legal relationships, with the consent of the spouse, either from an assumed heterosexual relationship (marriage) to a same-sex marriage or civil partnership, or from a civil partnership/same-sex marriage to a marriage.

Breaching the confidentiality of trans people without their consent is always unlawful, but if they have a GRC and the information is passed on by a person who has learned this information in an 'official capacity', that is, as part of their job, this could be a

criminal offence. The government is considering simplifying the process of obtaining a GRC by introducing 'self-declaration'. This approach has already been adopted in several other countries, including the Republic of Ireland, without any adverse outcomes.