

# Policy Document

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# Supporting Transgender Individuals

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Executive Lead:	Chief Nurse and Director of Human Resources

### Version Control Schedule

Version	Issue Date	Comments
1	June 2018	New policy introduced
2	September 2018	Information re Health Records added (section 7.3)
3	January 2020	Minor updates on training and reporting and monitoring arrangements

### Statement on Trust Policies

The latest version of 'Statement on Trust Policies' applies to this policy and can be accessed [here](#)

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## 1. INTRODUCTION

- 1.1 University Hospitals of North Midlands is committed to promoting an inclusive, diverse workforce promoting 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 Transgender (the term Trans is the preferred term by most transgender people) is an umbrella term used to cover numerous types of gender identity labels. Their gender identity may not fit neatly into society's idea of 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. Gender is not just the physical body; we all have gender traits or behaviours.
- 1.3 Some Trans people who feel that they have been assigned to the wrong gender will choose to have gender reassignment (to change from one gender to the other). Some individuals may want to undergo gender reassignment but are unable to because they cannot have hormone therapy, e.g. if the person had liver or kidney damage or other health issues. Similarly, some individuals may feel they can cope with the physical body parts they have and opt not to have surgery, though this ability to cope may change in the future. This decision is entirely personal and unique to each individual.
- 1.4 When a person transitions as an adult, sometimes in middle age or later, the years of oppression of the person's gender identity at any age may have contributed to a deteriorating mental state. The treatment is therefore life enhancing and even lifesaving and is not taken lightly; it is not a lifestyle choice. Access to treatment could be a prolonged process over a number of years.
- 1.5 None of the above has anything to do with sexual orientation, for example, an individual may change from a man to a woman but may also be a lesbian.
- 1.6 This policy sets out the Trust's responsibilities as a service provider and an employer of Trans people. As gender reassignment is a protected characteristic under the Equality Act 2010 the Trust must ensure that people are not discriminated against or disadvantaged by service delivery, employment policy or procedure or by prejudice of Trust employees, other patients or the public.
- 1.7 It is also important to recognise that being Trans is only one aspect of the individual's identity and therefore it is not a case of "one size fits all". Each person will have different needs and, as such, a person-centred approach to their care will need to be taken.
- 1.8 For a member of staff who is Trans, any changes to working conditions or access to facilities should have a negotiated approach between the staff member and their manager.
- 1.9 This policy needs to be considered alongside other Trust policies such as, Equality & Diversity; Dignity at Work, Sickness Absence Management, and Standards of Dress at Work Policy, etc.
- 1.10 An "Equality Impact Assessment" has been undertaken and no actual or potential discriminatory impact has been identified relating to this document.

## 2. STATEMENT

- 2.1 This policy provides guidance for the Trust's employees on the expectations and other considerations that may be necessary for transgender patients.
- 2.2 It also applies to Trust employees intending to transition, who are transitioning or have transitioned and states that gender reassignment should be treated with respect and dignity by managers and teams.

- 2.3 This policy supports the Trust in its delivery of inclusive employment and healthcare service provision and ensures that it does not breach the Equality Act 2010. Under this legislation it now states that a transgender person no longer has to be under medical supervision or have a gender reassignment certificate (GRC) to prove that they are transgender. They must be treated as the gender they identify as.
- 2.4 It is against the law to ask a transgender person to show you their GRC. If verification of their identity is required they may show you their birth certificate or other identity documentation such as a passport or driving licence. It is an offence for a person who has acquired protected information in an official capacity to disclose this information without consent unless it is a significant threat to life or to protect "vital interests" of the transgender person.
- 2.5 When a patient is identified as part of the transgender programme, with their consent, their GP informs Primary Care Support England (the PCSE) who create a new record or identity for the patient on the National Spine (Personal Demographics Service or PDS) along with a new NHS number. If the patient agrees to this information being shared with other relevant health providers, UHNM will then be able to contact the patient with a view to obtaining consent to update their Trust health record with their new name and gender. The Trust's systems update the existing records with the new NHS number and name to match the spine but do not issue a new hospital number. This is because there is existing and previous clinical history attached to the current clinical record which has to be retained and available to clinicians.

### **3. SCOPE**

- 3.1 This policy applies to all staff, patients and members of the public detailing how a Trans person should be treated in a dignified, non-discriminatory way.
- 3.2 Discrimination against a Trans person should be challenged, whether the discrimination stems from staff, patients or the public.

### **4. LEGISLATIVE COMPLIANCE**

- 4.1 In 1996 it was made unlawful to discriminate against Trans people in the workplace. In 1999, gender reassignment treatment was made a legal right on the NHS. In 2002, the European Court of Human Rights established that Trans people should be afforded legal status in the gender that they live in, and resulted in the Gender Recognition Act 2004.

The main pieces of legislation are the Gender Recognition Act 2004, The Sex Discrimination Act 1975 and the Equality Act 2010.

The Gender Recognition Act gives legal recognition of a persons' acquired gender for all legal purposes for people who satisfy the Gender Recognition Panel that they:

- 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 affirmed gender

### **5. DEFINITIONS**

*Transgender* This is an umbrella term used to cover numerous types of gender identity labels and the preferred term for Trans people.

*Non Binary* Not identifying with the man or woman approach to gender. A non-binary person may say they are neither man nor woman, or may have

some other sense of gender – for example pan-gender, poly-gender, third gender.

<i>Intersex</i>	Intersex people are individuals whose anatomy or physiology differs from contemporary cultural stereotypes of what constitute typical male and female.
<i>Gender dysphoria</i>	When a person experiences distress or discomfort because there is a mismatch between the gender they identify with and that to which they were assigned at birth (also known as biological sex).
<i>Gender reassignment</i>	The process of transitioning from one gender to another which can, but does not have to include surgery or hormone treatment.
<i>Gender Identity</i>	How a person perceives their sense of gender, which may vary from the sex they were assigned at birth. It may be used by those who are undergoing gender reassignment, those who are not, and those who have a fluid gender identity.
<i>Gender expression</i>	How people may choose to express their gender identity, for example, through the clothes they wear, length of their hair or the way they act or speak.
<i>Gender fluid</i>	A wider range of gender expressions that may change from day to day. For example, a person may identify more as a woman on some days, and identify more as a man on others, or may feel that neither gender describes them accurately.
<i>Affirmed gender</i>	The preferred term for gender identity after transition.
<i>Gender recognition Certificate</i>	<p>Trans people who have officially changed their name, have been living full-time in their affirmed gender as a man or a woman for over 2 years and intend to do so permanently may go through a formal process of applying for a Gender Recognition Certificate (GRC).</p> <p>This is a legal process set out in the Gender Recognition Act. It enables those who were born in the UK to have a new birth certificate if they wish. Once a person has their GRC, they must be regarded as a member of their new gender for all legal purposes. Surgery or any other gender reassignment treatment such as hormone therapy is NOT a pre-requisite for a person to obtain a Gender Recognition Certificate.</p> <p>Managers should bear in mind that if such an individual is in possession of a GRC, it is unlawful to disclose their gender history without their express written consent.</p>

You may come across a variety of other terms however these are no longer the preferred terminology.

*Transsexual* A person who identifies as a gender different to that which they were assigned at birth and has a desire to live and be accepted as such. They may or may not have gender reassignment. This term is however, used in the Equality Act to refer to a person who has the protected characteristic of gender reassignment.

*Transvestite* A person who chooses to dress and behave as the opposite gender for some of their time. This is an old terminology which is no longer used.

## **6. ROLES AND RESPONSIBILITIES**

### **6.1 Role of Managers**

Every manager employed by the Trust is responsible for promoting equal opportunities in practice and, where applicable, for preventing patient and staff discrimination.

Line managers are responsible for:

- Ensuring that all staff are aware of this policy and attend any relevant training to ensure no discrimination occurs.
- Challenging staff who discriminate and ensuring that the relevant procedures are followed i.e. Dignity at Work, Disciplinary Policy, etc.
- Supporting their staff to challenge discrimination from other staff, patients or the public.
- Agreeing a plan with a staff member who is proposing to transition to ensure that they are supported throughout the process (see 6.2.1.)
- Ensuring that a Trans person is addressed and treated as the gender they identify with.

### **6.2 Role of the Equality, Diversity and Inclusion Group**

The Equality, Diversity and Inclusion Group is responsible for:

- Overseeing the development and monitoring of the Transgender Policy
- Consulting with members of the transgender community
- Providing a forum to identify themes, concerns and examples of best practice to inform service improvement for gender variant service users and staff

### **6.3 Role of Individual Staff**

All employees have a personal 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:

- Complying with the Transgender Policy
- Challenging/reporting discriminatory practice or language
- Ensuring that the Trans person's history is not discussed or disclosed and their privacy and dignity is respected at all times.

## **7. STANDARDS AND PRACTICE**

### **7.1 Delivering same-sex accommodation for trans patients**

7.1.1 Trans people, that is, individuals who have proposed, commenced or completed reassignment of gender, enjoy legal protection against discrimination. In addition, good practice requires that clinical responses be patient-centred, respectful and flexible towards

all trans people who do not meet these criteria but who live *continuously or temporarily* in the gender role that is opposite to their natal sex.

General key points are that:

- Trans people should be accommodated according to their presentation: the way they dress, and the name and pronouns that they currently use.
- This may not always accord with the physical sex appearance of the chest or genitalia;
- It does *not* depend upon their having a gender recognition certificate (GRC) or legal name change;
- It applies to toilet and bathing facilities (except, for instance, that pre-operative trans people should not share open shower facilities);
- Views of family members may not accord with the trans person's wishes, in which case, the trans person's view takes priority.

- 7.1.2 When a patient has disclosed that they identify with a gender that is different to the one assigned at birth or their gender is unclear the individual should be sensitively asked how they wish to be addressed and the correct pronouns should be used at all times, e.g. she/he/they
- 7.1.3 The patient should be in a single sexed environment of the gender they have presented as. However, they may prefer not to be placed on a ward of their identified gender so a discussion should take place. The patient may be asked if they prefer the privacy of a side room, if one is available, but this should not be automatic or arranged without their consent.
- 7.1.4 If the patient is undergoing a medical procedure connected to their previous gender they may need to be placed in the ward of that medical specialism. However, the patient should be fully consulted with regards to accommodation as it may have a severe impact on their mental wellbeing to be on a ward housing only the opposite gender. The patient could be offered a side room for privacy or a bed found on a ward of the correct gender close by. This may arise, for instance, when a trans man is having a hysterectomy in a hospital, or hospital ward that is designated specifically for women, and no side room is available. The situation should be **discreetly** discussed with the individual concerned and a joint decision made as to how to resolve it. At all times this should be done according to the wishes of the patient, rather than the convenience of the staff.
- 7.1.5 Patients should **always** be treated as the gender of their identity. It would therefore be grossly inappropriate to nurse such a patient on a single sex ward of their birth gender. It may be appropriate to discuss with the patient how they wish to be nursed and any special requirements they may have.
- 7.1.6 If the patient is near the beginning of the reassignment process staff need to be aware that they may need sensitive support for some areas of their care, e.g. a female may need to shave facial hair, a male may need feminine hygiene products such as sanitary towels (to ensure that a sanitary towel bin is available, the patient may be advised to use the disabled toilet as this is unisex).
- 7.1.7 The patient may be extremely anxious and sensitive when receiving personal care or examination. Additionally, the patient may be anxious about how they will be treated while in hospital due to poor previous experiences of healthcare.
- 7.1.8 If upon admission, it is impossible to ask the view of the person because they are unconscious or incapacitated then, in the first instance, inferences should be drawn from presentation and mode of dress. **No investigation as to the genital sex of the person**



**should be undertaken unless this is specifically necessary in order to carry out treatment.**

- 7.1.9 Discrimination from staff, other patients or public will not be tolerated. In the case of staff being discriminatory, the manager should use the relevant policies/procedures to deal with the situation e.g. Dignity at Work, Disciplinary Policy and Procedure. If other patients or the public are discriminatory, they should be reminded that this behaviour will not be tolerated by the Trust.

## **7.2 Particular considerations for children and young people**

- 7.2.1 Gender variant children and young people should be treated with the same respect for their self-defined gender as are Trans adults, regardless of their genital sex.

Where there is no segregation, as is often the case with children, there may be no requirement to treat a young gender variant person any differently from other children or young people. Where segregation is deemed necessary, then it should be in accordance with the dress, preferred name and/or stated gender identity of the child or young person.

- 7.2.2 In some instances, parents or those with parental responsibility may have a view that is not consistent with the child's view. If possible, the child's preference should prevail even if the child is not Gillick competent.

- 7.2.3 More in-depth discussion and greater sensitivity may need to be extended to adolescents whose secondary sex characteristics have developed and whose view of their gender identity may have consolidated in contradiction to their sex appearance. It should be borne in mind that they are extremely likely to continue, as adults, to experience a gender identity that is inconsistent with their natal sex appearance so their current gender identity should be fully supported in terms of their accommodation and use of toilet and bathing facilities.

- 7.2.4 It should also be noted that, although rare, children may have conditions where genital appearance is not clearly male or female and therefore personal privacy may be a priority.

## **7.3 Record Keeping**

- 7.3.1 Trans patients have a legal right to change their name and gender on their NHS records.

Medical record-keeping for trans people can be a challenge. Names and titles must be changed to reflect current gender status. This should always be done as a matter of courtesy and is not dependent on having a Gender Recognition Certificate. Most doctors do prefer to have evidence of the permanency of the name change by way of Deed Poll or Statutory Declaration before making official changes to the patient notes, however treatment must not be withheld on the basis that a patient has not provided either of these documents.

Gender guidance as the process is as follows:

When transitioning, the patient can either inform the GP or directly inform the Clinical Commissioning Group (CCG) of this, and that in future they would be known by their new name and gender. This request should be in writing and must be signed by the patient. The patient can either write a "Statutory Declaration" they may have a deed poll document, or they may simply make a request in writing.

The GP writes to the Registration Office at the CCG. The GP may write a letter of support confirming the gender role change and that this change is intended to be permanent, but this is not a requirement.

The Registration Office then writes to the Personal Demographics' Service National Back Office who will create a new identity with a new NHS number. The records held by the patients GP are then transferred to the new identity and sent back to the GP.

## 7.4 Staff

- 7.4.1 Trans people will come into contact with the Trust either during the recruitment process or by making their intentions known during their employment. Managers should be aware that there is legal protection in employment before, during and after transition.

In order to support the transition from one gender to another it is essential that line managers are supportive, sensitive and able to discuss with the person concerned how they want the process in relation to their continued employment to be handled. It is important to document any agreement and any discussions to ensure confidentiality and sensitivity are maintained. These should be recorded in staff personal files and not disclosed to any third party, unless the individual has given specific written permission to do so.

It is likely to be daunting for an employee to tell an employer that they are intending to transition, are transitioning or have transitioned. Managers should sensitively support employees by meeting regularly with the individual and agreeing a clear plan.

- 7.4.2 Get explicit permission from the employee to talk in confidence with HR, or occupational health for expert advice.
- 7.4.3 Agree with the member of staff when will be the first day at work they will present in the gender identity they are transitioning to or have transitioned to.
- 7.4.4 The expected timescale of absence for the medical and surgical procedures and medical treatment they may choose to undergo.
- 7.4.5 Discuss when, if and how colleagues will be told about a transition or gender identity - the staff member may prefer the manager to do this.
- 7.4.6 Identify what support is available for the staff member e.g. counselling, peer support, Trust LGBT+ Network. Research has found that Trans people are more likely to be affected by mental health problems, such as depression and managers should be aware of this and be able to support the individual to access appropriate services with their consent.
- 7.4.7 Whether, for example the person wishes to stay in their current workplace or transfer at the start of transition, or after transition, to another role in the organisation, if that is feasible. Unless the individual specifically asks for a change in role or work area this should not be discussed.

However, it may be that an employee themselves wishes to suggest a temporary change of deployment, for example from a public facing role to an alternative role during transition and every effort should be made to accommodate this if requested. The employee can then move back when they feel ready.

- 7.4.8 An employee can of course apply for UHNM vacancies, which are out to advert, via usual recruitment processes. However, if as a consequence of the above discussion, the manager determines that there is good reason to support the employee with exploring options for permanent redeployment at UHNM then the manager should obtain advice/guidance from HR for next steps in respect to the Trust's redeployment processes. The employee needs to be mindful that the Trust's redeployment process is dependent on

whether suitable alternative vacancies are available and is aimed particularly at those employees who are at risk of redundancy.’

- 7.4.9 Will the change of gender affect the job role i.e. does the role have a “genuine occupational requirement” to be a particular gender?
- 7.4.10 All staff should be aware that the organisation supports that an employee, once living and working in their gender identity, can use the toilet, changing or shower facilities that they feel best match that identity. The organisation has a mix of gender neutral facilities in addition to traditional male/female facilities.
- 7.4.11 UHNM has a gender neutral dress code. Managers and staff members should refer to HR31 Standards of Dress at Work Policy. UHNM promotes staff following the Standards of Dress at Work Policy in a way which they feel matches their gender identity.
- 7.4.12 Agree what changes to staff systems/records will be needed. At the point when an employee makes their transition public all documents, public references such as identity badges, telephone directories, e-mail accounts, circulation lists, rotas, Electronic Staff Records and employment details should be amended to reflect the acquired gender of the person.
- 7.4.13 Where documents have been seen and copies taken at the point of starting employment (such as a birth certificate) every effort should be made to replace those with equivalent documents in the new name and gender. This will prevent any breach of confidentiality. In some instances however, it may be necessary to retain records relating to an individual’s identity at birth, for example, for pension or national insurance or tax purposes prior to acquiring gender recognition. Once a person has obtained a Gender Recognition Certificate however these must be replaced with the new birth certificate details
- 7.4.14 Once a person has obtained a Gender Recognition Certificate there must be no disclosure of this information without the express written permission of the individual, as previously stated this constitutes a criminal act, subject to a substantial fine.
- 7.4.15 Trans people in employment may choose voluntarily to disclose information, for example when answering an equal opportunities questionnaire, or survey. Strict confidentiality should be observed.
- 7.4.16 In relation to DBS (Disclosure and Barring Service) checks, where this applies, the DBS Bureau has implemented a separate application procedure which allows Trans applicants to exclude previous names from the Disclosure Application form. Applicants however will still be required to send details on their previous identity in a separate letter. The DBS will then check the data sources held against both current and previous names. 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 revealed 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 on the Disclosure.
- 7.4.17 Managers should discuss whether time off will be required for medical appointments. This is addressed in the Trust’s Special Leave Policy HR61 and Sickness Absence Management Policy HR 14.
- 7.3.18 It is important to ensure that both the manager and individual know how to report any gender reassignment discrimination or unacceptable behaviour towards employees with non-binary identifies, and how such matters should be handled.

Discrimination from staff, other patients or the public will not be tolerated. In the case of staff being discriminatory, the manager should use the relevant policies/procedures to deal with the situation, e.g. *Dignity at Work* and *Disciplinary Policy and Procedure*. If the manager is discriminatory towards the staff member, this would be dealt with via the appropriate policy e.g. *Dignity at Work* and *Disciplinary Policy and Procedure*. This applies even if the individual does not hear what is being said about them as this breeds a culture of prejudice and disrespect. If patients or the public are discriminatory, they should be reminded that this behaviour will not be tolerated by the Trust.

## 8. EDUCATION/TRAINING AND PLAN OF IMPLEMENTATION

**This section is directly related to education and training for staff who are caring/responsible for Trans patients within the hospital setting. However it is important to note this training and education resource can also be used for managers/leaders around supporting of Trans staff members.**

- 8.1 The Trust Equality and Inclusion Leads are responsible for the implementation of this policy.
- 8.2 Following approval, the policy document plus Equality Impact Assessment will be added to the Trust's document library accessible through the Trust Intranet site.
- 8.3 Divisional HR Teams will ensure that managers are aware of the Policy and their responsibilities. The Policy will also be communicated through the Trust communications channels.
- 8.4 Transgender awareness courses are available to access. The recommended e-learning package is <http://www.gires.org.uk/e-learning/>
- 8.5 Equality training for managers will also include the topic of transgender individuals.

## 9. USEFUL DOCUMENTS FOR FURTHER READING

Department of Health (2008) *Trans: A practical Guide for the NHS*  
[http://library.transgenderzone.com/?page\\_id=993](http://library.transgenderzone.com/?page_id=993)

Royal Free Hampstead NHS Trust: **Transgender Guide for NHS Acute Hospital Trusts.**  
[https://uktrans.info/attachments/article/5/transgender\\_booklet\\_low%20res.pdf](https://uktrans.info/attachments/article/5/transgender_booklet_low%20res.pdf)

GMC Advice for doctors treating Trans patients  
<https://www.gmc-uk.org/guidance/28851.asp>

GIRES (Gender Identity Research and Education Society)  
<http://www.gires.org.uk/assets/trans-rights.pdf>

Stonewall Scotland (2012) **Changing for the Better: How to include transgender people in your workplace: A guide for employers.** 2<sup>nd</sup> Edition  
[https://uktrans.info/attachments/article/210/changing\\_for\\_the\\_better\\_2012\\_final.pdf](https://uktrans.info/attachments/article/210/changing_for_the_better_2012_final.pdf)

ACAS Gender reassignment discrimination: key points for the workplace  
[http://www.acas.org.uk/media/pdf/f/3/Gender\\_reassignment\\_discrimination.pdf](http://www.acas.org.uk/media/pdf/f/3/Gender_reassignment_discrimination.pdf)

ACAS Research Paper – Supporting Trans Employees in the Workplace  
[http://www.acas.org.uk/media/pdf/6/f/Supporting-trans-employees-in-the\\_workplace.pdf](http://www.acas.org.uk/media/pdf/6/f/Supporting-trans-employees-in-the_workplace.pdf)

ACAS Gender Identity: Terminology  
<http://www.acas.org.uk/media/pdf/6/k/Gender-identity-terminology.pdf>

## 10. MONITORING AND REVIEW ARRANGEMENTS

### 10.1 Monitoring Arrangements

Element to be monitored	The policy will be monitored by consultation with UHNM LGBT+ Staff network, patient complaints, Datix reports and patient feedback.
Lead	Equality & Inclusion Leads
Tool	Consultation with the UHNM LGBT+ Staff Network and patient groups to capture personal experiences, monitoring Staff Surveys, Datix reports and Complaints
Frequency	Datix reports, complaints and feedback will be responded to immediately.
Acting on recommendations	Any recommendations will be approved by the Equality, Diversity & Inclusion Group.
Change in practice and lessons to be learned	Feedback on policy implementation will be shared with the Quality and Safety Oversight Group and Quality Governance Committee and/or Transformation & People Committee through Equality, Diversity and Inclusion reports with areas identified for change in practice and lessons learned. A lead member of the relevant team will be identified to take each change forward where appropriate.  Required changes will be time limited, and will be developed in partnership with staff side.

### 10.2 Updating

The policy will be fully reviewed in three years or earlier if indicated from the result of monitoring and review, legislative changes, a national policy instruction (i.e. NHS England or Department of Health) or a Trust decision.

## 11. REFERENCES

Department of Health (2009) **Eliminating Mixed Sex Accommodation**

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/200215/CNO\\_note\\_dh\\_098893.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/200215/CNO_note_dh_098893.pdf)

GOV.UK (2010) **The Equality Act**

ACAS Gender reassignment discrimination: key points for the workplace

[http://www.acas.org.uk/media/pdf/f/3/Gender\\_reassignment\\_discrimination.pdf](http://www.acas.org.uk/media/pdf/f/3/Gender_reassignment_discrimination.pdf)

Nottingham Healthcare NHS Trust Transgender resources

APPENDIX 1: FLOWCHART

