

# Policy Document

Reference: C64

## Supporting Transgender and Non-Binary Individuals

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### 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
4	March 2024	Updated terminology

### 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. Trans can be used to describe people whose gender identity or gender expression does not fully correspond with the gender they were assigned at birth. There are lots of identities under the trans umbrella, including (but not exclusive to) non-binary identities. Trans and non-binary people may not identify with the gender they were assigned at birth, may not identify within the gender binary some or all of the time, or may not identify with at all. Gender expression, gender identity and sexuality are all different and everyone places differently.
- 1.3 Some trans and non- binary people may choose to transition. Transition is a term used when they change the gender they were previously known as. It can be a social transition, a medical transition, or can mean something else. Social transition can include changing ones name, asking people to use different pronouns, and changing the way you express your gender. Medical transition can involve medical treatments such as hormone therapy and gender affirmation surgeries. Some non-binary people may choose to have medical intervention or gender affirmation surgeries. There is no one way to transition this decision. 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. This is not due to being trans or non-binary; the reason mental health outcomes are poorer for LGBT people is due to stigma, discrimination, and minority stress(e.g. threat of hate crime, losing family and friends, being told you are abnormal or unwelcome- not because being LGBT is a mental illness or bad for your wellbeing. 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 Gender identity and gender expression do not determine sexual orientation. Gender identity is a person's innate sense of their own gender, whether male, female or something else which may or may not correspond to the gender assigned at birth. Gender Expression is how a person chooses to outwardly express their gender, within the context of societal expectations of gender. A person who does not conform to societal expectations of gender may not, however, identify as trans. Sexual Orientation is a person's sexual attraction to other people, or lack thereof. Along with romantic orientation, this forms a person's orientation identity. (Definitions from Stonewall: <https://www.stonewall.org.uk/list-lgbtq-terms>).
- 1.6 This policy sets out the Trust's responsibilities as a service provider and an employer of trans and non-binary 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. Non-binary people do not have the same legal recognition or protection, however as a Trust we wish to recognise non-binary employees and patients and ensure that they are also not discriminated against or disadvantaged.
- 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. This would include for staff using the correct pronouns. For patients it would include using the correct pronoun and allocation to their preferred wards/area in accordance with their identity.

- 1.8 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 patients who are transitioning or have transitioned, either medically or socially; including non-binary, patients and external visitors, and states that trans and non-binary people should be treated with respect and dignity by managers, teams, other patients and external visitors in the Trust.
- 2.3 This policy supports the Trust in its delivery of 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 to protect “vital interests” (i.e. In circumstances of threat to life) of the transgender person, for example: An individual is admitted into A & E department of a hospital with life-threatening injuries following a serious road accident. The disclosure to the hospital of the individual’s medical history is necessary in order to protect their vital interests.
- 2.5 When a patient is identified as transgender or non-binary, with their consent, their GP informs Primary Care Support England (the PCSE) who creates 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 affirmed 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 trans and non-binary people should be treated in a dignified, non-discriminatory way.
- 3.2 Discrimination against trans and non-binary people 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 and non-binary 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

<i>Transgender</i>	This is an umbrella term used to cover numerous types of gender identity labels and the preferred term for trans people.
<i>Non Binary</i>	Not identifying some or all of the time within binary genders. A non-binary person may feel 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–may have the–biological attributes of either sexes or whose biological attributes do not fit with social assumptions about what constitutes male or female. This can be due to differences in primary and secondary sex characteristics including external and internal genitalia, hormones, and/or chromosomes. Intersex people may identify as male, female or non-binary.
<i>Gender dysphoria</i>	When a person experiences distress or discomfort because there is a mismatch between their gender assigned at birth and their gender identity.
<i>Transition/Transitioning</i>	The process of transitioning is steps a person may take to affirm the gender with which they identify but does not have to include surgery or hormone treatment. There is currently a lack of clarity in the law, therefore we aim to go above and beyond to cover gender identity and expression, as well as transition.
<i>Gender Identity</i>	How a person perceives their sense of gender, which may vary from gender they were assigned at birth. It may be used by those who are undergoing transitioning, those who are not, and those who have a fluid gender identity. Everyone has a gender identity- even cisgender individuals.
<i>Gender expression</i>	How people may choose to express their gender identity, for example, through the clothes they wear, style 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 feminine on some days, and identify more as masculine on others, or may feel that no gender describes them accurately.
<i>Affirmed gender</i>	The preferred term for gender identity after transition.
<i>Gender recognition Certificate</i>	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).

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 prerequisite for a person to obtain a Gender Recognition Certificate.

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.

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. The term cross-dresser is now the preferred terminology.

## **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 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.
- Ensuring that a trans and non- binary person is addressed and treated as the gender they identify with. The Trust encourages people to ensure they are using people's affirmed name and pronouns.

### **6.2 Role of the LGBT+ Staff Network Group and Hospital User Group**

These groups are responsible for:

- Overseeing the development and monitoring of the Supporting Transgender and Non-binary Individuals Policy
- Consulting with members of the transgender and non-binary 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 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 Supporting Transgender and Non-binary Individuals Policy.
- Challenging/reporting discriminatory practice or language.
- Ensuring that the trans person's history is not discussed or disclosed and their privacy and dignity are respected at all times.

## **7. STANDARDS AND PRACTICE**

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

- 7.1.1 Trans and non-binary people, at any point in their transition, enjoy legal protection against discrimination in accordance with the Equality Act 2010 & Gender Recognition Act (2004) applicable to people over the age of 18. In addition, good practice requires that clinical responses be patient-centred, respectful and flexible towards all trans and non-binary people who do not meet these criteria but who live *continuously or temporarily* in the gender role that is different to their gender assigned at birth.

General key points are that:

- Trans and non-binary 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 characteristics 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
  - Views of family members may not accord with the trans or non-binary person's wishes, in which case, the trans or non-binary 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, it is generally good practice, if relevant, regardless of how a person presents, to ask them to confirm how they identify their gender rather than rely on assumptions and appearances as this could lead to people being mis-gendered. 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 Non-binary patients should be supported on a single sex ward by, for example: ensuring the correct pronoun is used, gender inclusive and neutral language is used, and their preference of ward is taken.



- 7.1.5 If the patient is undergoing a procedure typically associated with a particular 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 gendered ward with which they do not identify. The patient could be offered a side room for privacy or a bed found on a ward of the affirmed 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.
- 7.1.6 Patients should **always** be treated as the gender they identify as. It would therefore be grossly inappropriate to take the patient to a ward without confirming or asking. It may be appropriate to discuss with the patient how they wish to be nursed and any special requirements they may have.
- 7.1.7 Staff need to be aware that a trans or non-binary patient may need sensitive support for some areas of their care, e.g. a person may need to shave facial hair, or may need 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).
- 7.1.8 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.
- 7.1.9 If upon admission, it is impossible to ask the view of the person because they are unconscious or incapacitated then staff could look for forms of ID the patient has, to see if this would indicate their preferred gender. If no ID is available, then the patient could be registered as “unknown” with no gender on their wristband. Once the patient is conscious or the hospital has an update on the patient’s identity, the record can be changed. **No investigation as to the genital sex of the person should be undertaken unless this is specifically necessary in order to carry out treatment.**
- 7.1.10 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 trans, non-binary, children and young people**

- 7.2.1 Children and young people who identify as trans or non-binary should be treated with the same respect for their self-defined gender as trans and non-binary adults.

Where there is no segregation, as is often the case with children, there may be no requirement to treat a young trans or non-binary 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 gender appearance so their current gender identity should be fully supported in terms of their accommodation and use of toilet and bathing facilities.

### 7.3 Record Keeping

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

Medical record-keeping for trans and non-binary individuals can be a challenge. If requested, names and titles must be changed to reflect current gender identity. This should always be done as a matter of courtesy and is not dependent on having a Gender Recognition Certificate. Treatment must not be withheld on the basis that a patient has not provided a GRC, however the **gender marker should not be changed by a secondary care provider**.

If a trans or non-binary person requests this, this must be gently declined and advice provided on the correct process to be followed should be given.

Gender guidance as the process is as follows:

The patient needs to inform their GP practice that they wish to change their gender. When the patient informs the practice that they wish to change gender, the practice must inform the patient that this will involve a **new NHS number being issued for the them**, which is not reversible. (If, at any point, the patient wanted to change their gender marker back to the gender they were assigned at birth, patients would receive a third NHS number). The practice should confirm this has been discussed with the patient when notifying **Primary Care Support England (PCSE)**.

The process (outlined by PCSE) for changing a patient's gender marker is as follows:

- The GP practice notifies PCSE via the enquiries form that a patient wishes to change their gender. The practice should include the patient's name and NHS number in the notification to PCSE, plus confirmation that they have discussed with the patient that this will involve the creation of a new NHS number
- PCSE sends the practice a deduction notification for the patient and emails the main contact for the practice (if available) the new details for the patient
- The practice accepts the deduction and registers the patient using the new details provided by PCSE.
- PCSE sends a new patient medical record envelope with the patient's updated details to the GP practice
- The practice creates a new patient record using the new details, and transfers all previous medical information from the original medical record
- Any information relating to the patient's previous gender identity should not be included in the new record. GP practices can use gender neutral language and anonymise patient details to retain important information. For example, using phrases such as 'the patient had a smear on....' rather than 'she had a smear on...'. This is to protect confidential information and ensure the practice is in line with the Gender Recognition Act 2004 which makes disclosing an individual's trans history unlawful in many instances.

Once a new NHS number has been issued, this will be used for all care across the NHS however, as above, the old NHS number and health records **must not be merged** with the new one unless specific consent has been obtained from the patient.

## 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 People Directorate 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 RESOURCES AND 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) (this does use some out-dated terminology)

<https://www.stonewall.org.uk/help-advice/information-and-resources/faqs-and-glossary/list-lgbtq-terms>

<https://www.stonewall.org.uk/help-advice/information-and-resources/truth-about-trans>

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>

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 Gender Identity: Terminology

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

[Homepage - Mermaids \(mermaidsuk.org.uk\)](http://mermaidsuk.org.uk)

## 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

