

Guidance on Transgender Staff

1 Introduction

This guidance document is part of the Equality & Diversity Framework which is made up of a number of elements which together encompass all formal policy, procedure and statement documents, including associated forms, relating to Equality & Diversity in Abertay University.

If you would like this document in a different format (e.g. large print, braille) or need any assistance to access or understand the policy/procedure please contact your School/Service designated HR Partner

2 Purpose and Scope

This policy outlines the University's commitment to ensuring that transgender employees are treated with dignity and respect and are not disadvantaged in the workplace.

The policy sets out the steps the University takes to welcome and support transgender employees and prevent discrimination.

The policy covers all employees, contractors, temporary workers and job applicants and applies to all stages of the employment relationship.

Failure to take account of this policy may result in disciplinary action being taken against an employee.

3 Communication

The University will work with the employee to agree what information needs to be conveyed to work colleagues and when the information should be conveyed. While the whole workforce may not need to know about the employee's transition, people who work closely with the individual will normally need to know to ensure that a good working relationship is maintained.

The employee may wish to tell colleagues about their transition or may prefer if this is done by someone else on their behalf. The University will encourage the individual to do what is best for them and, if the employee is not ready to tell anyone at the early stages, the University will respect the employee's wishes. The employee is entitled to privacy and the University will seek to protect them from intrusive enquiries.

Where an employee has a public or client-facing role, the University will discuss with the individual what third parties need to know and how this should be handled.

The University will be mindful of possible media interest and establish a protocol for handling media interest to ensure that:

- a transgender employee is not left to deal with this alone; and
- their colleagues understand the importance of not compromising the individual's right to privacy.

4 Definitions

Definitions and terminology regarding transgender people are evolving. Appendix 1 to this policy provides guidance on some of the most commonly used terms. Individuals will self-identify and how they choose to describe themselves should be respected by their managers and colleagues. Rather than assume, it is best to ask someone how they wish to be addressed.

Using inappropriate language and terminology can cause offence and distress and undermines the University's efforts to create an inclusive workplace for transgender people.

The University recognises that gender identity and sexual orientation are different matters. Transgender people can be bisexual, gay, heterosexual or lesbian and so employees should not assume that a transgender colleague has a particular sexual orientation.

5 The law

Equality Act 2010

Gender reassignment is one of the nine protected characteristics covered by the Equality Act 2010. The Act protects a person from discrimination, harassment and victimisation if they are "proposing to undergo, are undergoing, or have undergone a process (or part of a process) of gender reassignment". There is no requirement for the person to be under medical supervision as gender reassignment is considered to be a personal rather than a medical process. Under the Act, a person who takes time off work for gender reassignment must not be treated less favourably in respect of employment decisions, for example by being denied access to training or promotion opportunities.

The Act also protects anyone who is perceived to have the characteristic of gender reassignment or is associated with someone who has the protected characteristic of gender reassignment, such as an individual's partner or a friend.

An employee who treats a colleague less favourably because of gender reassignment, for example by refusing to work for them, may be held personally liable for discrimination.

6 How the University supports transgender employees

The University recognises that transgender job applicants and employees are not required to inform the University of their gender status or gender history. The gender in which an individual chooses to present will always be acknowledged and respected.

To promote a workplace that is inclusive of transgender people, the University adopts the following approach.

6.1 Recruitment

The University wishes to attract applicants from as wide a talent pool as possible and the recruitment process is designed to be inclusive of transgender applicants.

Managers should not ask questions about an applicant's gender identity or gender history. If an individual chooses to mention this during the interview, they should be informed that the University supports transgender employees and assured that the disclosure will have no bearing on the outcome of the interview and will not be revealed outside the interview room.

The requirement to provide proof of identity to confirm the right to work in the UK can be particularly sensitive for a transgender applicant whose identification documentation may be in their previous names. The University will always ensure that an applicant is made aware of the full range of permissible identification documents and that the process of checking is handled sensitively and with respect for the privacy of the individual.

Where an individual's documentation reveals their previous name and thereby their gender history, this information will be kept confidential and stored securely in accordance with the requirements of data protection legislation. The same approach will apply where an applicant is required to present qualification certificates before a job offer is confirmed and the certificates are in the applicant's previous name.

6.2 Monitoring

In line with its policy on equal opportunities in employment, the University will monitor the gender identity and trans status of the existing workforce and of applicants for jobs (including promotion) and will review its equal opportunities policy in accordance with the results shown by the monitoring. If changes are required, the University will implement them.

The disclosure of information by employees/job applicants is voluntary and any information disclosed will be treated in confidence, stored securely and used only to provide statistics for monitoring purposes.

6.3 Employment

An employee who is transitioning may wish to be redeployed or have adjustments to their duties on a temporary or permanent basis. This may be because: the individual is in a public-facing role and wishes to avoid having to answer questions from the public about gender status; or the role involves particular tasks, for example heavy lifting, that will be difficult to undertake if undergoing a particular type of treatment. Requests to be redeployed or adjust duties will be discussed with the employee and, where possible, the University will seek to accommodate the employee's wishes.

A manager should not put pressure on an individual to change jobs or make assumptions about their capability or wishes.

An employee's gender history or status will not have a bearing on any employment decisions or access to benefits, except where permitted by law. For example, an individual who has transitioned but does not have a Gender Recognition Certificate (GRC) may be required to disclose their gender history for insurance and pension purposes. In such circumstances, the University will treat such information as sensitive data and it will be handled in line with the requirements of data protection legislation.

Where pension and insurance providers request disclosure of an individual's gender status, the University will ensure that this requirement has been checked with the underwriter and the requirement is made clear in any scheme information provided to employees. In such circumstances, the employee's written consent will be obtained before disclosing their gender history and status.

6.4 Names and pronouns

The University will take all necessary steps to ensure that an individual's change of name is respected. The University is aware that a failure to change pronouns and names on records in respect of a transgender employee could constitute direct discrimination.

A GRC is not required to enable a transgender person to change their name and the University will never ask an individual if they have a GRC to verify a name change, as to ask such a question would be inappropriate.

Consistently addressing a transgender employee by their previous name and/or an inappropriate pronoun may be regarded as harassment and will be dealt with accordingly.

6.5 Changing employee records

Any records that hold personal details should be changed by the time the individual presents at work with their new identity. Records will include all of the systems that may contain names, titles and other personal identifiers such as photographs on the University's website and intranet. The University will work with the employee to ensure that nothing is omitted.

6.6 Confidentiality

All records that include details of an employee's gender history will be destroyed in a secure manner, unless there is a specific reason for retaining them. Where other people in the University need to be aware of the employee's transition to make a change to a particular record, the University will restrict the information to those who need to know.

Where there is a need to retain documentation that shows someone's gender history, this information will be stored confidentially in line with the requirements of data protection legislation. Those individuals with access to gender history information will be made aware that breaches of confidentiality could be unlawful and result in disciplinary action.

It is an individual's decision whether or not to reveal their gender status and history and the University will respect their right to privacy. For example, if someone is recruited into a team managed by a transgender employee, they must not be informed about the manager's gender history. The right to privacy will apply regardless of whether or not the individual has a GRC.

Where an employee discloses information about their gender history or status (verbally or in writing), this will be treated as confidential. This includes any information provided to the line manager or HR. Such information will not be shared with others, unless there is a specific reason and then not without the written consent of the individual concerned. Disclosure of the gender history of someone with a GRC without their specific permission would normally be a criminal offence.

Information relating to an employee's gender status or history will not be disclosed to a third party without the individual's consent, for example when responding to a reference request.

6.7 Bullying and harassment

The University adopts a zero-tolerance approach to harassment, bullying or victimisation and such behaviour may result in action being taken under the University's disciplinary procedure.

Examples of harassment against transgender people include:

- verbal abuse such as name-calling, threats, derogatory remarks or belittling comments about transgender people
- asking an individual if they have a GRC
- jokes and banter about someone's gender identity or transgender people generally
- refusing to use the pronoun appropriate to someone's acquired gender (for example, calling a trans woman "he") or calling the person by the name they had before they transitioned
- threatening behaviour or physical abuse
- intrusive questioning about someone's gender identity or transition
- excluding a transgender colleague from conversations or from social events
- refusing to work with someone because they have transitioned
- displaying or circulating transphobic images and literature.

All employees are made aware of the University's dignity at work policy and the procedures in place for handling complaints of bullying and harassment. The University will also publicise its position on bullying and harassment to any third parties with which it engages.

Any complaints of bullying and harassment are taken seriously and dealt with promptly.

6.8 Single-sex toilets and facilities

The University will support a transgender employee's right to use the toilets and facilities appropriate to their gender from the point at which the individual declares that they are living their life fully in that gender. In some cases, the individual may wish to use a single-occupancy toilet during their transition, but they must not be pressurised to do so and this should not be seen as a long-term solution. A transgender person should not be expected to use an accessible toilet unless they have a disability.

The University will agree with the employee when they wish to start using the facilities appropriate to their acquired gender and how this should be communicated to colleagues. Any concerns raised by others will be dealt with promptly and sensitively.

Where possible, the University will move from providing gender-specific toilets to gender-neutral toilets.

7 Supporting an employee who is transitioning

The University will be supportive of an employee who has made the decision to transition.

The University acknowledges that the transition process and the time it takes will be unique to each individual and that it is not always a linear process.

Transitioning is a major decision and the individual may have taken years to come to this point. They may fear rejection or ridicule by their work colleagues. It is therefore vital that the University supports the individual so that they can continue to work without fear of discrimination and harassment and that colleagues are helped to understand the process.

Once the University has been made aware by an employee that they will be starting, or have started, the process of transitioning, an appropriate point of contact will be agreed with the employee. That person will work with the employee to develop a confidential action plan to manage the individual's transition at work (Appendix 2).

The plan will consider what steps to take before, during and after the employee's transition. No action will be taken without the employee's consent.

It is important to develop a plan that is bespoke to the individual employee. Some of the key issues to address are likely to include:

- when and how an individual will present at work in their new gender status
- handling a request by the employee to change or adjust their job temporarily during the transition process or to adjust or move to a new role permanently
- the point at which colleagues, especially any direct reports, will be informed and how this will be done
- if and how third parties, such as clients, should be informed
- how absence from work for reasons associated with transitioning (for example, for medical appointments and/or medical treatment) will be handled
- arrangements for changing the individual's name on their personnel records, email, security badges etc
- confidentiality
- dress codes and/or uniforms.

Transitioning is a process that takes time, and, to help both parties, regular review meetings will be arranged to manage the process. This will ensure that the right support is in place, and enable the plan to be amended as things change. Effective support for someone who is transitioning requires dialogue, agreed action and respect.

APPENDIX 1: Glossary

- **Acquired gender:** Used in the Gender Recognition Act 2004 to describe a person's gender after transitioning. As this is a legal term, many people now prefer to use the term "affirmed" gender.
- **Assigned gender:** The gender assigned to someone at birth, based on their physical characteristics.
- **Cross dresser:** Someone who chooses to wear clothes not conventionally associated with their assigned gender. "Cross dresser" is now used in preference to the term "transvestite", which is considered to be outdated and can cause offence. Cross dressers are generally comfortable with their assigned gender and do not intend to transition.
- **Gender dysphoria:** A recognised medical condition where the individual experiences severe discomfort and anxiety because their gender identity does not align with their biological sex.
- **Gender expression:** How someone manifests their gender identity in society, for example through their appearance and behaviour.
- **Gender identity:** A person's internal perception of their gender, their sense of self. For transgender people, their gender identity does not match the gender they were assigned at birth.
- **Gender reassignment (or transitioning):** The process where an individual changes their expressed gender to live fully in the gender with which they identify. For example, a person who was born female decides to take steps to live the rest of their life as a man. Gender reassignment does not require medical treatment and is a protected characteristic under the Equality Act 2010.
- **GRC - Gender Recognition Certificate** – certification under the Gender Recognition Act 2004 by the UK Government's Gender Recognition Panel enabling transsexual people to get their UK birth certificates and legal gender changed, and for the law to recognise them as having all the rights and responsibilities appropriate to a person of their acquired gender.
- **Intersex:** An intersex person is born with ambiguous genitalia and/or sex chromosomal variations, making it difficult to classify their biological sex. There are many different intersex conditions. An intersex person may self-identify as a man or a woman or neither.
- **Non-binary:** An inclusive term to describe people whose gender identity is "fluid" and not exclusively male or female. A non-binary person may identify as neither male nor female or may feel that they embody elements of both genders, or that they are something different. The terms intersex and non-binary are not interchangeable.
- **Transgender (or trans):** An umbrella term describing the diverse range of people whose gender identity or gender expression differs from the gender they were assigned at birth. The term can encompass individuals who are transsexual, cross dressers or non-binary.
- **Transsexual:** A transsexual person has the protected characteristic of gender reassignment and is defined in the Equality Act 2010 as someone who is "proposing to undergo, is undergoing or has undergone gender reassignment". Gender reassignment is a protected characteristic under the Act. It is not necessary for a transsexual person to have to be under medical supervision to be protected in law from discrimination.
- **Transphobia:** A fear of or a dislike of transgender people. It is based on prejudice and misunderstanding and can involve verbal abuse, physical violence and other forms of harassment.