

Transitioning Gender

Guidance for Employees and Managers

Context

As part of our wider Inclusion Strategy, the University is committed to creating a positive and supportive environment where everyone feels proud, confident, challenged and where barriers that prevent people feeling at ease and respected are removed. This includes providing support and understanding to staff who wish to take steps, or have already taken steps, to change the gender with which they identify.

We recognise that there is a spectrum of gender diversity and that traditional gender stereotypes are inadequate in reflecting the lives of our staff. Where trans is referred to in this guidance, this refers to a broad range of people whose gender identity is not expressed in ways that are typically associated with their assigned sex at birth. This includes those who have non-binary, non-gender or gender-fluid identities and individuals who may not identify as trans, but who are impacted by matters covered in this guidance.

We recognise that transitioning can be a very difficult and complex time for an individual, and would wish to act in a sensitive and supportive way by having helpful arrangements to ease any transition period.

Purpose

The purpose of this guidance is to outline the support that the University can offer an employee who is transitioning and provides advice and information for all staff to help them improve their understanding of gender identity and the support they can provide to trans colleagues.

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Key Principles

This guidance provides assurance on the following key principles:

- ✔ We recognise that there are many different identities which fall under the term 'trans' and that every person has specific needs and the transitioning experience varies greatly from person to person.
- ✔ We are committed to the provision of fair and equal treatment for everyone and ensuring trans staff are not treated less favourably than any other member of staff.¹
- ✔ Everyone should be treated in their self-identified gender at all times irrespective of whether they have undergone any medical or hormonal treatment or hold a gender recognition certificate.
- ✔ Information relating to trans staff's status and history should be treated confidentially and as any other sensitive personal information and not revealed without prior explicit agreement of the individual (Data Protection Act 2018).
- ✔ Any transitioning support plan will be led by the person transitioning and we will provide a supportive environment for people who wish their trans status to be known.
- ✔ Staff undergoing medical and surgical procedures relating to gender reassignment will receive positive support to meet their particular needs during this period.
- ✔ Bullying, harassment, victimisation or discrimination related to gender identity (transphobia) will be treated very seriously and dealt with under the appropriate University policy and procedures.²

Terminology

Trans (or transgender) is a term to describe anyone whose gender identity or gender expression differs from the gender assumptions they were assigned at birth (biological sex). Some people may not self-identify as male or female (non-binary), or may express their gender differently some of the time, or outside of work. Not all people that can be included in the trans term will associate with it.

Non-binary is a term to describe people whose gender identity doesn't sit comfortably with 'man' or 'woman'. Non-binary identities are varied and can include people who identify with some aspects of binary identities, while others reject them entirely.

¹ Legislation relevant to this guidance can be found at **Appendix 1**

² Examples of transphobia and behaviours that could amount to transphobic harassment or discrimination are contained in **Appendix 2**

Intersex people are born with variations of sex characteristics that do not fit typical binary notions of male or female. Not all intersex people opt for surgery and many will consider themselves to be intersex rather than male or female. Some intersex people who had their gender incorrectly prescribed at birth may decide to transition to the gender in which they identify with later in life. Many intersex people do not identify as trans, and some have lived as their identity from birth.

Transitioning is the term used to describe the process which someone goes through to live as a different gender from their sex at birth and can be a lengthy and difficult process. Transitioning is a personal, not medical process and it should never be assumed that a trans person suffers from gender dysphoria³ or that they intend to undergo any medical processes relating to their transition.

Not all trans people will be able to, or choose to undergo any medical treatment to support their transition, and either way, they should be treated in line with their gender identify. Much of the transition process is about social aspects such as name, clothes, appearance and personality rather than the medical aspects that are often associated with it.

Medical transitioning is known as gender reassignment⁴ and involves medical interventions to help a person's body and physical appearance align more closely with their gender identity. The process consists of counselling, followed by medication to alter the body and physical characteristics. During this process, the individual may begin to change their gender expression, and this may develop throughout their transition. The final stage for some individuals is to undergo reassignment surgery. Not everyone who goes through gender reassignment undergoes surgery; it is a personal choice and not a key criterion in the process of definition to gender change.

At some point the person will want to start to live full time in the new gender and their name and other records (such as driving licence, birth certificate and passport) may be formally changed. The person is expected to live and work in their new gender role for a minimum period of one year (in Scotland) prior to any irreversible surgical intervention. This period is often referred to as the 'real life experience' or 'real life test'.

Every individual may choose a wide a differing set of options in the way that they wish to shape their future lifestyle and the choices they wish to make. The most important role that the University can play is to offer support at any or all stages of an individual's journey, regardless of whether they undergo any medical treatment, and facilitate any procedures or processes as appropriate.

A full list of useful [terminology](#) is available from Stonewall Scotland.

³ <https://www.nhs.uk/conditions/gender-dysphoria/>

⁴ **Gender reassignment** is the legal term that protects trans people under the Equality Act 2010, regardless of whether they have undergone medical treatment.

Transitioning at the University

Making the decision to transition is a very significant step in a person's life and not something they will have undertaken lightly. The process of transitioning is unique for each person and includes a variety of steps which don't have a linear direction. Feeling supported as they develop their new identity is key.

The University is committed to supporting staff through their transition process. Making the decision to transition and begin changing gender presentation impacts all areas of life, including work. As soon as an employee feels comfortable sharing this information formally, they should let the University know by contacting their manager or a member of the HR team, or request a colleague to inform their manager or HR on their behalf.

There is no requirement for an employee who is transitioning to inform anyone at the University, it is a personal choice. However, letting someone know about their plan to transition will help the University support them more effectively, and enable an action plan to be made to help manage the change in the workplace. Employees may wish a colleague or trade union representative to accompany them at these discussions.

All information provided will be treated in confidence as sensitive personal information, and only passed on where necessary and with their explicit consent.

Whilst specific individual needs will normally be reflected in an action plan, there are some general principles about treating people who are transitioning which should be considered by others:

- ☑ Think of the person as being the gender they identify as from the outset of the transition process. This means, for example using their chosen name and pronoun. If you are not sure how to address or refer to someone, then politely ask how they would like to be addressed and referred to, including which pronouns they would prefer to be used. If you make a mistake with pronouns, correct yourself and move on. Do not make a big deal of it.
- ☑ Respect their privacy. Don't tell others about a person's trans status or transition process unless you have permission to do so. If documents have to be kept that have the person's old name and gender on them, keep them confidential. Don't ask what their 'real' or 'birth' name is. They may not wish to reveal information about their past, especially if it might affect how they are perceived in the present.
- ☑ Respect people's boundaries. Transitioning is a very personal and individual experience. Some people may choose to talk openly about their transition, whilst others may choose to keep the experience private. If you feel it is appropriate to ask a personal question, first ask if it is okay to do so.

- ☺ If any unacceptable behaviour (e.g. transphobic language or behaviour) occurs, encourage the person to seek help and offer them assistance if needed. If a workplace culture is developing which may lead to unacceptable behaviours, this should be drawn to the attention of an appropriate manager or to the HR team. You can refer to the University's Dignity at Work Policy for further guidance.

Transition Action Plan

It is a matter of choice who the employee informs of their intention to transition. It is recommended that they work together to agree a plan of key actions to detail the workplace transition and when and how actions will be taken to reflect their new identity.

In order to provide the best possible support, it may be necessary for the person to whom the employee makes their disclosure to, to contact the HR team, to request anonymous advice. No identifying information will be shared without the employee's explicit consent.

The plan should cover any significant timelines, such as time off required and when they will start presenting at work in their new gender, and also to discuss practicalities such as when and how their colleagues should be made aware of these changes. The action plan should be shaped by the employee as much as possible and be sufficiently fluid to take account of changing circumstances and preferences.

It is imperative that confidentiality is maintained at all times and under no circumstances should any communication or actions be taken without the explicit consent of the individual. The action plan should be kept strictly confidential and any records destroyed after the person has reached a stage in their transition where these documents are no longer required or relevant.

Practical Considerations

Identification and name change

A trans person can request to change their full name, appropriate pronouns and gender on all University records (apart from pension records) by notifying HR of the changes to be made (this is usually done by providing a Statutory Declaration of Name and Gender Change, but this is not a legal requirement).

Some people choose not to change their name immediately, or at all. They may wish to use a shortened version of their name, or a nickname. If this is the case, it is preferable that their manager or their chosen contact is advised of the preferred name in advance so that the birth name is not used in error. Once a trans person has made known their chosen name, this name should be used in all circumstances. Also, a

person who identifies with a certain gender, regardless of whether or not they have had surgery, should be referred to using the pronoun they have a preference for (e.g. he, she or they).

A gender recognition certificate (GRC) gives a trans person the means to obtain a new birth certificate but other official identification and services reflective of their preferred gender can be gained without a full GRC including a passport, driving licence and the ability to change bank details. The University has no right to ask for, or to see, this certificate. However, a GRC is required to update pension records to reflect a change in gender (see below).

The University is supportive of all staff members adding pronouns to an email signature if they wish to do this. Adding these words to an email has the practical benefit of making it clear how the person would like to be referred to, while also signalling to the recipient that they will respect their gender identity and choice of pronouns. It can be an effective way of normalising discussions about gender and fostering an inclusive work environment for trans and non-binary colleagues.

Time off work

A person transitioning may require time off work for a variety of medical appointments. Appointments to see specialists may involve travelling time and the amount of time off required following surgery will vary greatly depending upon the nature of the surgery. The University's Attendance Management Policy will apply and staff will not be treated any less favourably than if they were absent due to sickness or injury. Absence due to medical gender reassignment will not be taken into account when reviewing an employee's attendance record.

Single sex facilities

There are a number of gender neutral facilities available at the University, but trans people are not required to only use these facilities, or single occupancy facilities. A trans person can access facilities that align to their gender identity and this includes 'men-only', 'woman-only' and gender neutral facilities.

Records

University records that hold the employee's name, prefix or information that could reveal their previous identity should be amended to reflect their preferred gender and name. No records should be changed without the permission of the employee concerned. With the exception of pensions, a written note is sufficient for the gender and name on staff records to be changed. Examples of records that may need to change are HR records, staff pass; email address; IT document systems; staff directory entry; intranet profile; gym membership; employee benefits; business cards; voicemail; and trade union membership. The HR team can help an employee change their University records.

The University will inform HM Revenue and Customs (HMRC) if an employee changes their gender to ensure that the employee pays the correct National Insurance contributions. At present, HMRC do not recognise non-binary gender and only record male and female. For non-binary staff this still needs to be recorded, but the University will ensure that this is protected and not linked to other records.

Pensions

Changes to pension records differ and under the current rules of the University pension schemes, a gender recognition certificate is required for the relevant pension scheme to amend the employee records to reflect a new gender and any resulting change of name.

When information is required to be recorded for HMRC and pension purposes, it will be stored securely.

Dress code

The University is supportive of employees choosing their dress code in connection with their gender identity. If an employee is normally provided with a uniform to undertake their role, they may choose an option which matches their gender identity.

Adjustments to current working arrangements

Consideration will be given to facilitating requests for reasonable temporary or permanent adjustments to be made to the employee's role or working arrangements in order to best support them.

References

References for current or former staff who have transitioned will make no reference to the person's trans status, former name or gender and will use the appropriate pronoun.

Recruitment

Trans people should not face barriers during the recruitment process. Where formal documentation is required before commencing employment at the University, confidentiality should be emphasised when requesting this. If the person has not been issued with new identification, the birth certificate may show the person was born with a different name and/or gender. The same situation can arise with a passport from another country that does not have the same legislative provision as the UK.

Sources of Support

In addition to University services, there are many external organisations providing support and advice.

- ✔ **Human Resources** – HR can provide support and advice. Call the HR team on x3344 or email HumanResources@napier.ac.uk
- ✔ **LGBT+ Staff Network** – enables LGBT+ colleagues to come together to share information, learn together, socialise and support each other.
- ✔ **Trade unions** – Employees who are members of the [Educational Institute of Scotland \(EIS\)](#) or [UNISON](#) can receive support and advice from their trade union representative.
- ✔ **Employee Assistance Programme** – free, external and confidential wellbeing service that provides emotional, practical and physical support across a wide range of areas.
- ✔ **Occupational Health Service** – provides information about potential reasonable adjustments to support employees in the workplace.
- ✔ **Togetherall** – provides 24/7 online support from experienced clinicians, plus a range of courses and tools to help people self-manage their wellbeing.
- ✔ **University's Health & Wellbeing Intranet Page** - resources to support the wellbeing of staff.
- ✔ [Equality and Human Rights Commission \(EHRC\)](#) is a statutory body with responsibility for protecting, enforcing and promoting equality across all protected characteristics.
- ✔ [The Gender Trust](#) provides advice and information for people affected by gender identity issues.
- ✔ [The Beaumont Society](#) provides help and support for the transgender community.
- ✔ [Gender Identity Research and Education Society](#) aims to improve the lives of trans and gender non-conforming people of all ages, including those who are non-binary and non-gender.
- ✔ [Scottish Trans Alliance](#) is the equality network project to improve gender identity and gender reassignment equality, rights and inclusion in Scotland.
- ✔ [Stonewall](#) is a charity that works with organisations to support LGBT communities.
- ✔ [Advance HE](#) provides resources to support trans staff in HE and colleges.

Related Policies and Documentation

- ✔ [Dignity at Work Policy and Procedure](#)
- ✔ [Edinburgh Napier University Inclusion Statement 2017](#)
- ✔ [Data Protection Policy Statement](#)
- ✔ [Attendance Management Policy](#)



Appendix 1 – Relevant Legislation

Equality Act 2010

Gender reassignment is one of the nine protected characteristics within the Equality Act 2010 and is also included in the Public Sector Equality Duty.

The Act protects a person from discrimination, harassment or victimisation if they are proposing to undergo, are undergoing or have undergone a process (or part of a process) to change their sex. The Act also protects:

- ✔ Trans people who are not under medical supervision or undergoing surgery;
- ✔ People who identify as non-binary and gender fluid;
- ✔ People who experience discrimination because they are perceived to be trans people;
- ✔ People from discrimination by association because of gender reassignment.

Human Rights Act 1998

This Act underpins all equality legislation that relates to employers in the public sector and for whom they provide services. It requires trans and non-binary people to be treated with respect, dignity and fairness and provides protection to them principally under the right to a private life.

Gender Recognition Act 2004

This Act allows people to apply for a gender recognition certificate (GRC) which will give them legal recognition in their acquired gender and enables them to obtain a new birth certificate (provided a UK birth register entry already exists for the person).

This Act safeguards the privacy of a person with a GRC by defining information relating to the gender recognition process as 'protected information' and except in specific circumstances, it is a criminal offence to disclose such information without the individual's consent.

Data Protection Act 2018

Under the Data Protection Act, transgender identity and gender reassignment constitute 'sensitive personal data' for the purpose of the legislation and must be processed as such.

Appendix 2 – Transphobia

Transphobia encompasses a range of negative attitudes, feelings or actions toward trans people, or people who are perceived to be trans, or trans allies. Transphobia can include fear, aversion, hatred, violence, anger, or discomfort felt or expressed towards people who do not conform to social gender expectations. This can result in discrimination, harassment, victimisation and hate crimes. Transphobia can take many different forms and staff may not be aware of the subtle and nuanced ways in which it can occur. The following are a few examples of transphobic attitudes:

- ☑ Speculating about someone's gender, for example "*Are they a man or a woman?*" or "*Are you transgender?*" It is up to the person to disclose their gender identity.
- ☑ Expressing non-trans friendly comments, such as "*Why does there seem to be more transgender people these days?*" The trans population has remained stable throughout the years but nowadays this group has gained visibility, has greater support on expressing their gender identity and acceptance from the general population.
- ☑ Purposefully ignoring someone's preferred pronoun (*misgendering*) and/or their correct name (*deadnaming*) when they disclose their gender identity. This right is protected by the Equality Act 2010.
- ☑ Questioning someone's ability to "pass", for example "*She'd be more convincing if she used more make-up.*" In the context of gender, passing refers to someone's ability to be perceived as in accordance with their gender identity. This type of questioning enforces gender stereotypes and increases the likelihood of bullying and harassment.
- ☑ Questioning someone's internal identity, for example "*Maybe you are just confused*", "*Are you going through a phase?*" Someone's internal sense of gender is a core part of that person's identity that often forms at an early age. The decision to share this is with other people is highly personal and differs from person to person.

The following list provides examples of the types of behaviours that could amount to discrimination and harassment as a result of gender identity.

Discrimination

- ☑ Rejecting an application for a role on the basis of gender identity or gender history.
- ☑ Failure to promote someone because of their gender identity or gender history.
- ☑ Treating a trans person less favourably than others regarding sickness or other absences.

- ✔ Prohibiting a person from dressing or appearing in accordance with their gender identity.
- ✔ Refusing to allow entry to facilities appropriate to the person's self-perceived gender.
- ✔ Refusing a reasonable request from person transitioning to change their role or be redeployed.

Harassment

- ✔ Refusing to participate in common activities, to associate with, or ignore someone because of their identity.
- ✔ Revealing the gender identity or gender history of someone to others, without their consent (outing someone).
- ✔ Refusing to use a person's preferred name or pronoun.
- ✔ Spreading malicious gossip about that person.
- ✔ Questioning someone's ability to be perceived as in accordance with their gender identity.
- ✔ Refusing to acknowledge the rights of someone to live as their self-identified gender.
- ✔ Using transphobic and abusive language regarding the gender identity or gender history of a person.
- ✔ Verbal or physical threats because of their gender identity or gender history.
- ✔ Criticising someone for their preferred choice of bathroom or changing facilities.



Appendix 3 – Example Transition Action Plan

An action plan can be put in place to help guide the employee through the process of transitioning. It should be shaped by the employee and ideally completed together with the person they have informed of their decision to transition. The action plan may include:

- ☑ **Any potential periods of absence** – any time off work required will depend upon the nature and extent of the treatment that the employee is undergoing. Any time off for medical appointments or surgical procedures will be treated and recorded as per the usual process for medical appointments and sickness absence under the University's Attendance Management Policy.
- ☑ **Making referrals for support** – in order to ensure that the best possible support is provided, it may be necessary for advice to be obtained from the HR team. No identifying information will be shared without the employee's explicit consent. Internally, support can also be accessed from the LGBT+ network, the Employee Assistance Programme and trade union representatives.
- ☑ **Date, if applicable, when the employee wishes to use a different name or change records** – it can be useful to discuss the date when the employee intends to start presenting in their new gender identity so that the changing of records, names and other matters to coincide with this date can be organised. However, some people may prefer not to set a date and the University will support them to express their gender in the manner and at the time which works for them.
- ☑ **Changing records** – discuss the information (gender, name and pronoun) that may need to be updated by the time the employee presents in their new identity and if changes are required, who will be responsible for arranging these changes. HR can provide support with this. Examples of records that may need to change are: HR records, staff pass; email address; IT document systems; staff directory entry; intranet profile; gym membership; employee benefits; office door names, business cards; voicemail; any information provided to students; membership lists of groups and committees and trade union membership.
- ☑ **Communication** – there is no obligation to inform other people, but it is recommended to discuss and agree the method and content of any communication to colleagues and/or direct reports, other employees and relevant third parties. Deciding on who is told, how they are told and what they are told must be led by the employee, with support from their main point of contact/manager. The employee should not be pressurised into taking responsibility for telling people. Consideration should be given to the general and specific information that should be provided and how explaining to colleagues how they can support the employee.

Options may include a short email from the employee (or their manager) stating that from a specified date they will be presenting at work according to their gender and will be known as [new

name], or the employee could draft a more personal message. Other options could include speaking directly to individuals, holding a team meeting, or a combination of these.

The employee may also want to consider this as an opportunity to set boundaries about what they are comfortable discussing, or how they would like to deal with any questions that people may have. It can also be an opportunity to educate people about transgender issues, for example by circulating this guidance document but this is a matter for the individual concerned. There should be no expectation for them to educate others and colleagues can educate themselves using the resources contained in the Sources of Support section.



Appendix 4 – Employee FAQs

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| <p>I wish to transition, or am in the process of transitioning – who do I need to contact to inform the University?</p> | <p>To formally notify the University of your transition, you should inform your manager or HR Partner. Whether you have joined the University while transitioning, or transition whilst you are a member of staff, we will work with you to ensure that the appropriate support is identified and the timing of decisions are led by you.</p> <p>No matter who you inform first, the disclosure will be treated as confidential. No one else should be informed until they have discussed with you who you wish to inform, whether anyone needs to be informed and when.</p> |
| <p>Where can I get confidential advice around transitioning?</p> | <p>Please see the <i>Sources of Support</i> section within this document for all of the University support services and external organisations who can provide you with support and advice.</p> |
| <p>How do I change my name and ID at the University to reflect my change of name and gender?</p> | <p>You do not need a gender recognition certificate, a statutory declaration or evidence of name change via deed poll in order to change your name with the University. You just need to request the change in writing by notifying your HR Partner of your new preferred name and pronouns and the date that the change should take effect.</p> <p>With your consent and from the date agreed with you, your manager or HR Partner can help with the process of changing University records to reflect your change of name.</p> |
| <p>How will time off for medical or other appointments be dealt with?</p> | <p>If you need time off for medical or other appointments, the University's Attendance Management Policy will be used to manage this. Other policies, e.g. Flexible Working may also be relevant to consider, depending upon your circumstances.</p> |
| <p>If I am being bullied or harassed about my transition or gender identity, what should I do?</p> | <p>Transphobic abuse, harassment or bullying is not tolerated by the University. Any examples of this behaviour will be dealt with under the University's Dignity at Work Policy. You should report any instances of transphobic abuse to your manager or HR.</p> |