



Trans and non binary Equality Policy for Employees

| | | |
|---|---|-----------------|
| Policy number and category | HR19 | Human Resources |
| Version number and date | 2 | August 2021 |
| Ratifying committee or executive director | Transforming our Culture and Staff Experience (People Committee Subgroup) | |
| Date ratified | August 2021 | |
| Next anticipated review | February 2026 | |
| Executive director | Director of Strategy, People and Partnerships | |
| Policy lead | Senior Equality, Diversity, and Inclusion Lead | |
| Policy author (if different from above) | | |
| Exec Sign off Signature (electronic) | XXXX | |
| Disclosable under Freedom of Information Act 2000 | Yes | |

Policy context

Why is a Trans equality policy needed? Many large organisations and a number of smaller ones have employees who are Trans or non binary.

Trans/non binary people play an active role in communities and organisations across the UK, including as employees. All benefit from attracting a diverse range of job applicants. A Trans/non binary person who is supported at work is likely to be a happy and therefore more productive and loyal employee. Some Trans people will be transitioning in the workplace, and it is important to support these employees appropriately. The protected characteristic of 'gender reassignment' is recognised under the Equality Act

2010. The Trust will go above and beyond to ensure best practice is embedded, providing full protection on the grounds of gender identity and gender expression. This is to be inclusive of all Trans and non binary people.

Policy requirement (see Section 2)

The policy covers a wide range of topics, not solely focusing on arrangements for when a person transitions. This includes:

- a statement of commitment from the Trust, maintaining dignity and respect at all times;
- definitions of terms used, with an acknowledgement that language can evolve quickly, especially around gender identity;
- information on the legal protections that Trans/non binary people have, including the importance of respecting confidentiality;
- information on Trans equality in recruitment;
- where to go and what will happen if someone experiences or witnesses Transphobic discrimination;
- advice and support for an employee transitioning at work and advice for managers when an employee transitions at work;
- information about how Trans equality will be promoted and monitored in the organisation;
- support for staff with a family member who is transitioning.

CONTENTS

| | |
|---|--------------|
| 1 INTRODUCTION | 3 |
| 1.1 Rationale | 4-5 |
| 1.2 Scope | 4 |
| 1.3 Principles (Beliefs) | 4 |
| 2 POLICY (What) | 5 |
| 3 PROCEDURE | 6-9 |
| 4 RESPONSIBILITIES | 10-13 |
| 5 DEVELOPMENT AND CONSULTATION PROCESS | 13 |
| 6 REFERENCE DOCUMENTS | 13 |
| 7 BIBLIOGRAPHY | 14 |
| 8 GLOSSARY | 15-17 |
| 9 AUDIT AND ASSURANCE | 18 |
| 10 APPENDICES | |
| Appendix 1 Equality Analysis | 19-22 |

1: INTRODUCTION

Birmingham and Solihull Mental Health NHS Foundation Trust (BSMHFT) is dedicated to creating a workforce that is compassionate, inclusive and committed. Promoting equity of opportunity for Trans and non binary people throughout recruitment, employment and service design, including supporting Trans employees through Transition. The Trust will not tolerate discrimination, victimisation or harassment on the basis of Transition, a person's gender identity and gender expression.

The purpose of this policy is to assist managers, colleagues and Trans and non binary employees in BSMHFT with practical information on workplace support and guidance. The Trust will provide a supportive environment for Trans and non binary staff and create a culture which is psychologically safe where Trans staff are able to thrive as well as being supported during Transition.

Why 'Trans equality policy' not 'Gender reassignment policy'?

The Trust is committed to go above and beyond its legal duties to provide protection on the grounds of gender identity and gender expression. Trans people should be protected from discrimination and harassment at all times, not solely when they are transitioning, any policy must reflect this. Although the phrase 'gender reassignment' is used in the Equality Act 2010, it is now generally considered to be out-dated language. Both the Equality Act 2010 and the Gender Recognition Act 2004 are clear that gender reassignment need not involve any medical intervention. However, the phrase is widely misinterpreted to assume that it is a medical process, and this can feed myths and misunderstandings.

Definitions

'Trans' or 'Transgender' describes people whose gender identity differs from their sex assigned at birth. They are umbrella terms covering people who:

- are intending to undergo, are undergoing, or have undergone transition, including any form of social Transition;
- identify as having a gender different from that which they were assigned at birth and are planning or have had medical interventions such as hormones or surgery;
- identify as having a gender different from that which they were assigned at birth, but who are not planning any medical intervention; and/or,
- An umbrella term for a person who does not identify as only male or only female, or who may identify as both',

Stonewall, 2020

These are not mutually exclusive alternatives.

Transitioning: the steps a Trans person may take to live in the gender with which they identify. Each person's Transition will involve different things. For some this involves medical intervention, such as hormone therapy and surgeries, but not all Trans people want or are able to have this. Transitioning also might involve things such as telling friends and family, dressing differently and changing official documents.

BSMHFT recognises there is no right or wrong way to Transition and is committed to supporting each individual in their decisions. Please see the glossary (section 8) for further information.

1.1 Rationale

This policy sets out the Trust's responsibilities as an employer of Trans and non binary people. Gender reassignment is a protected characteristic under the Equality Act 2010, and the Trust has a duty to protect all Trans and non binary people and ensure that staff are not discriminated against or disadvantaged by service delivery or prejudice of Trust employees, or by any other third party whom work in partnership with the Trust.

1.2 Scope

This policy applies to all staff including Temporary Staffing Staff (TSS), agency staff and volunteers; providing guidance on how a Trans and or non binary person should be supported and treated in a dignified, non-discriminatory way. Any form of discrimination against a Trans and non binary person should be challenged in line with the Dignity at Work Policy, whether the discrimination stems from staff, patients or the public and will not be tolerated.

Staff who experience or encounter unacceptable behaviours, in addition to reporting the incident to their line manager, can also contact the Trusts Equality Lead, Human Resources, Staff Networks (LGBT+ staff network, Black Asian and Minority Ethnic (BAME) staff network or the Disability and Neurodivergence staff network), Inclusion Advisors or their Trade Union representatives, should they wish to seek additional support or discuss any concerns they may have.

1.3 Principles

As well as ensuring that Trans and non binary staff are fully supported, BSMHFT will demonstrate our commitment to Trans and non binary equality in the following ways:

- Ensuring that all training courses that are delivered are fully inclusive of Trans and non binary people this includes both face-to-face training and e-learning
- Marking important dates for the Trans community, such as Trans Day of Visibility (31st March) and Transgender Day of Remembrance (20th November)
- Including Trans and non binary people in publicity and marketing materials
- Ensuring that all forms and surveys are inclusive of Trans and non binary people, for both staff and service users
- Including Trans and non binary equality as a core part of the organisation's Equality, Diversity and Inclusion strategy

- Investigating fully all complaints of harassment or bullying, victimisation or discrimination on the grounds of gender identity, gender history, Trans identity or gender expression
- Monitoring the implementation of this policy.
- The Trust positively supports individuals with learning disabilities and ensures that no one is prevented from accessing the full range of mental health services available. Staff will work collaboratively with colleagues from learning disabilities services and other organisations, in order to ensure that service users and carers have a positive episode of care whilst in our services. Information is shared appropriately in order to support this.

2: POLICY

This policy provides guidance for the Trust's employees, line managers and Trans and non binary people on the expectations and other considerations that may be necessary. This policy needs to be considered alongside other Trust policies such as, Equal Opportunities Policy, Dignity at Work Policy and Management of Sickness Absence Policy.

Trans and non binary people are protected by the following legislative acts and where possible the Trust is committed to go above and beyond to protect employees on the grounds of gender identity and gender expression, to afford full protection to Trans and non binary employees:

2.1 Equality Act 2010

The Equality Act 2010 (England, Scotland and Wales) protects against discrimination because of gender reassignment in employment and service delivery. It bans direct and indirect discrimination and victimisation. There is similar protection in Northern Ireland under the Sex Discrimination (Gender Reassignment) Regulations (NI) 1999.

The Act makes clear that it is not necessary for people to have any medical diagnosis or treatment to gain this protection; it is a personal process of moving away from the gender assigned at birth to the correct gender.

People discriminated against because they are wrongly perceived to be Trans and non binary, or who are discriminated against because of their association with Trans and non binary people or issues, are also protected.

2.2 Gender Recognition Act 2004

The UK Gender Recognition Act (GRA) enables people aged over eighteen to gain full legal recognition for the gender in which they live. Applications are considered by the Gender Recognition Panel. Once a person receives a Gender Recognition Certificate (GRC), they are legally of that gender for every purpose and have all the rights and responsibilities associated with that gender. Not all Trans people will obtain or seek to obtain a GRC.

Employment rights do not depend on whether a person has a Gender Recognition Certificate. Employers should not ask for a person's GRC and it should never be a pre-condition for transitioning at work. To make an application for a GRC, a person needs to show they have been living and working in that gender for at least two years.

The Gender Recognition Act gives anyone applying for or holding a Gender Recognition Certificate particular privacy rights. It is a criminal offence to pass on information acquired 'in the course of official duties' about someone's gender recognition, without the consent of the individual affected. 'Official duties' include employment, trade union representation or supply of business or professional services. It is also an offence to pass on information relating to an individual's Trans history or identity as a Trans person without their consent, regardless of whether the individual has a GRC or not.

2.3 Genuine Occupational Requirements

In the vast majority of cases, the gender of a worker is of no relevance to their ability to do a particular job. However, the Equality Act 2010 does allow for an exception where being of a particular sex is an 'occupational requirement' of that post. If this is the case for an employee transitioning at work, they will be redeployed into a suitable position.

3: PROCEDURE

BSMHFT has a zero-tolerance approach towards discrimination and harassment based on gender identity, gender expression or gender history. Inappropriate behaviour or language may constitute discrimination, harassment, bullying or victimisation for example; deliberately referring to a Trans and non binary individual by an incorrect name, deliberately using incorrect pronouns, disclosing or threatening to disclose an individual's Trans or non binary identity without their consent. Discrimination including harassment, third party harassment and victimisation are covered by the Equality Act 2010. Managers are responsible for taking timely action where misconduct occurs on the grounds of an employee's gender identity, in line with the Dignity at Work policy. This will be monitored and followed up.

3.1. Employees who are Transitioning at work

If an employee states that they are intending to transition at work, their line manager, in conjunction with other appropriate colleagues pending consent from the individual, should aim to make this process as smooth as possible. Should the individual transitioning not wish to disclose this with their immediate line manager then they should speak with HR. If staff feel as though they are being treated unfavourably in any way or discriminated against, they could if they wish discuss this through other supportive routes (Equality leads, Trade Unions, FTSU guardians or inclusion advisors).

Managers should be aware that it can be an extremely difficult step for someone to approach their manager about transitioning. BSMHFT is committed to reassuring all staff that they will be supported and respected. The Transition process must be led by the individual concerned.

3.2. Process for an employee to change their name and gender marker on workplace systems

Legal name and gender "marker" (i.e., "M" or "F" on legal identity documents) changes can sometimes take months or even years to get updated depending on the circumstances. Until then, every effort should be made to use the new name and gender marker on all documentation. (E.g. email, phone directory, Trust ID / access badge etc.) The only exception is where records must match the person's legal name, such as on payroll and insurance documents.

Employees with a legal change of name and/or gender marker should notify HR. This change should update all internal systems and benefits-related systems.

In everyday written and oral communication, the new name and pronouns should be used when the individual is ready.

3.3 Telling colleagues

The manager and employee will discuss the individual's preferences in relation to informing others, including other managers, colleagues, service users and other relevant contacts. They will agree whether the employee will do this, whether they would prefer the manager or a work colleague to do this, or a mixture of these options. A written agreement from the employee concerned should be sought about when and how this will happen, including the details of the message and who it will be shared with. Levels of disclosure may vary in detail for different types of contacts and will be agreed in advance.

3.4 Uniforms and dress codes

If a uniform is in place for the role, managers will ensure that the Trans and non binary employee has access to the uniform that best matches with their gender identity and/or gender expression. Some Trans employees, including non binary employees, may need access to both the male and female uniforms. Managers will be flexible, and will support the preferences of the Trans and non binary person wherever possible. Trans and non binary staff have the right to comply with any dress code in a way that reflects their gender identity and gender expression. Name badges should be provided accordingly.

3.5 Changing facilities, toilets and other single sex facilities

Trans people are entitled to use single sex facilities in accordance with their gender. For non binary people, this might mean using gender-neutral or accessible facilities, or using a combination of different facilities. Trans people will never be required to use gender-neutral or accessible toilets unless they wish to do so.

3.6 Updating records

Electronic records will be updated in a timely manner, to coincide with the date on which the workplace Transition begins. Care will be taken to ensure that records do not link back to the former name; this may entail creating a whole new email address rather than simply changing the name on the existing one, for instance. The manager and employee will work together to ensure that nothing is missed. New security passes with the correct name and a new photograph will be issued, without any replacement cost to the Trans employee. Paper records will be updated where possible. Those which cannot be updated for instance, paper copies of references relating to the employee's recruitment or documents referencing the Trans employees previous details will be kept in a confidential envelope on the individuals file clearly marked as only to be looked at by people holding named positions.

3.7 Pensions and national insurance

Where pensions, national insurance contributions or other benefits are dependent on legal sex, Trans people will be advised of the different implications of whether they do or do not have a Gender Recognition Certificate. For non binary people, HR/Payroll would need to contact HMRC directly to inform them as they do not currently have a functioning process for this.

3.8 Professional registration

If the employee's job involves professional registration, the individual will check whether the registration body has a specific, confidential process for gender Transition. Further support and advice can be sought from HR if required.

3.9 Customer facing roles

There is no reason why an employee who is transitioning should not continue in a customer facing role. However, some people might prefer a period of redeployment during Transition, or as a permanent change. Managers and HR will work with the Trans person to find a solution that meets the needs of both the employee and the service.

3.10 Attendance at appointments and time needed for treatment and surgery

Many people have to travel a long distance for appointments, and these may be given at short notice. People may need reduced hours or duties, or other changes to usual working arrangements, for a temporary period following some treatments. Managers will be as flexible as possible to accommodate this

All employees will be given reasonable time off to attend appointments and this should be facilitated where possible. This information is strictly confidential and managers must be very careful of any record keeping in this. In addition, Trans staff are entitled to the same sickness absence and pay as other staff in accordance with the Management of Sickness Absence Policy. For further information please refer to the guidance notes available on Connect.

3.11 Support for employees with a family member who is Transitioning

If an employee is supporting a family member who is transitioning, they may need to take time off to attend appointments and treatment or give assistance following surgical procedures. Some of these may be at short notice, and may involve travelling a long distance. Managers will be as flexible as possible to accommodate this.

3.12 RECRUITMENT

3.12.1 Appointees

People who have already transitioned have no obligation to disclose their gender history. Job applicants and interviewees will not be asked their gender identity during the recruitment process; this is not a relevant criterion in selection. Neither is there any obligation for a Transgender person to disclose this as a condition of employment. If they choose to disclose, this is not in itself a reason for not offering employment, and non-disclosure or subsequent disclosure is not grounds for dismissal. Appointing officers who become aware that an applicant is Trans will maintain full confidentiality in relation to this. The Trust may monitor gender identify applications via equality surveys as best practice, these will always be conducted in a confidential manner.

3.12.2 References

Where a reference request is received for an existing employee who has Transitioned, BSMHFT will respect the employee's privacy and only respond using the employee's affirmed name and gender in the reference.

Disclosure on sickness absence will not include time taken off for medical appointments related to Transition. This information is strictly confidential and managers must be very careful of any record keeping in this.

When BSMHFT requests a reference, we will make the request using the prospective employee's affirmed name and gender since transitioning. We will not mention previous names or gender identity, unless specifically asked to do so (in writing) by the Trans and non binary person.

3.12.3 Criminal record checks/disclosure and barring

If the appointment requires criminal record checks, we will highlight to all applicants the confidential procedure available to Trans people. The Disclosure and Barring Service (DBS) offers a confidential checking service for transgender applicants in accordance with the Gender Recognition Act 2004. Further details can be obtained through the following site www.gov.uk/guidance/transgender-applications

3.12.4 Qualification certificates

BSMHFT recognises that it can be difficult and expensive for a Trans and non binary person to change their qualification certificates. If these are in a former name then where possible a record will be made that the certification has been seen, but a copy will not be taken. If it is absolutely necessary for the Trust to store a copy, they will be stored securely and only accessed by people holding named positions.

4: RESPONSIBILITIES

| Post(s) | Responsibilities | Ref |
|--------------------|--|-----|
| All Staff | <ul style="list-style-type: none"> • It is the responsibility of all employees to ensure that harassment, victimisation or bullying does not occur in their place of work. • Tackling incidents as they arise and reporting such incidents to management will support in dealing with inappropriate behaviours. • A diverse workplace means that employees must be able to work with all people. It is not required that they “believe in” or accept an individual’s “right to be Trans”. All employees are entitled to their beliefs; however everyone is required to treat transitioning employees and every other employee, with respect, by living the Trust values of being compassionate, inclusive and committed without bias. | |
| Trans staff | <ul style="list-style-type: none"> • Engaging with managers and HR around the logistics of transitioning in the workplace • Reporting any instances of harassment, bullying, victimisation or discrimination • Transitioning individuals should be prepared to understand honest mistakes and help guide their coworkers as necessary in particular when using pronouns. | |

| | | |
|--------------------------|--|--|
| <p>Co-workers</p> | <ul style="list-style-type: none"> • Using the appropriate names, pronouns and gendered language • If you are not certain which pronouns to use, it is appropriate to respectfully ask the individual which pronouns you should use. • In general, it's considered insensitive to refer to someone by the wrong pronoun | |
| | <p>once you have established the pronouns somebody uses.</p> <ul style="list-style-type: none"> • Continued and prolonged use of the incorrect name and/or pronouns to refer to a colleague can be considered harassment and will be addressed accordingly | |

| | | |
|------------------------|---|--|
| <p>Managers</p> | <p>Every manager has an obligation to prevent bullying, victimisation and harassment</p> <ul style="list-style-type: none"> • Managers must investigate such instances and take immediate action once it has been identified. • It is the manager’s responsibility to be aware of team dynamics and when concerns arise. Managers should seek advice immediately from the appropriate individuals should behaviours be seen as bullying, victimisation or harassment. • Managers should positively promote this policy by: <ul style="list-style-type: none"> • Explaining and advising on the policy to their staff • Ensuring a work place free from visual forms of harassment, victimisation or bullying • Being responsive and supportive to any member of staff who complains • Ensure confidentiality at all times • Provide sign-posting to additional counselling to staff who have difficulty in accepting the policy; • Ensuring their own behaviour is consistent with the policy • Seek additional help and support if need be <p>When supporting Trans staff managers should:</p> <ul style="list-style-type: none"> • Ensure that colleagues are informed about the employee’s Transition, this should be led by member of staff | |
| | <p>transitioning</p> <ul style="list-style-type: none"> • Maintain confidentiality at all times, including securing papers, documents and files | |

| | | |
|------------------------------|---|--|
| | <ul style="list-style-type: none"> Supporting the employee in any way that is necessary and appropriate | |
| Trade Unions | <ul style="list-style-type: none"> Supporting Trans and non binary members if they experience harassment, victimisation, bullying or discrimination at work Discuss and agree any changes to this policy | |
| Corporate Departments | <p>HR</p> <ul style="list-style-type: none"> Ensuring that this policy is followed at all times Maintaining confidentiality, including securing paper documents and files throughout the employment cycle. <p>IT Department/Support Services</p> <ul style="list-style-type: none"> Change names, titles and pronouns on email and other systems for transitioning staff members Issue updated security passes and ID badges within an appropriate time frame <p>Learning and Development</p> <ul style="list-style-type: none"> Embed Trans and non binary equality into training programmes where possible and as part of the general equality, diversity and inclusion training package for all staff. | |

Further support available

Should transitioning and non binary staff require further support they can confidentially contact the Trust's Equality Leads, Staff Network Chairs, Inclusion Advisors or Freedom to Speak up Guardians. Contact details can be found on the Trust connect pages.

Trans Wellbeing services:

Birmingham LGBT Centre offers Wellbeing and Counselling support services for Trans and non binary users via telephone and online.

For wellbeing support please email alexussavage@blgbt.org.

For counselling services for Trans and non binary people please email counselling@blgbt.org.

Stonewall: www.stonewall.org.uk

Gender Identity Research & Education Society (GIRES): www.gires.org.uk

Gender Intelligence: www.genderedintelligence.co.uk

Mermaids: www.mermaidsuk.org.uk

5: DEVELOPMENT AND CONSULTATION PROCESS

| Consultation summary | | |
|--|----------------------------|--------------------|
| Date policy issued for consultation | January 2021 | |
| Number of versions produced for consultation | 1 | |
| Committees / meetings where policy formally discussed | Date(s) | |
| Staff Networks: LGBT+ Staff Network BAME Staff Network Disability and Neurodivergence Staff Network | January 2021 | |
| JOSC | 9 th June 2021 | |
| PDMG | 29 th July 2021 | |
| Where received | Summary of feedback | Actions / Response |
| | | |
| | | |

6: REFERENCE DOCUMENTS

Birmingham LGBT Centre – charity advocating for and supporting lesbian, gay, bisexual and Trans communities in Birmingham and beyond: <https://blgbt.org/>

Equality & Human Rights Commission: <http://www.equalityhumanrights.com/>

Gender Identity Research & Education Society: <http://www.gires.org.uk/>

LGBT+ Staff Network: bsmhft.lgbtstaffnetwork@nhs.net

Stonewall - lesbian, gay, bi and Trans rights charity: <http://www.stonewall.org.uk/>

Unison, the public service union: <https://www.unison.org.uk/about/what-we-do/fairnessequality/lgbt> Email out@unison.co.uk with any queries.

7: BIBLIOGRAPHY

HR Policies:

Equal Opportunities Policy

Dignity at Work

Management of Sickness Absence

8: GLOSSARY

| | |
|---|---|
| Ally | A (typically) straight and/or cis person who supports members of the LGBT community. |
| Androgynous | An androgynous person is an individual who has a high degree of both feminine (expressive) and masculine (instrumental) traits. |
| Bi-gendered | A person who considers themselves to be both male and female at different times |
| Cisgender or Cis | Someone whose gender identity aligns with the sex they were assigned at birth. Non-Trans is also used by some people. |
| Cross-dresser | Someone who occasionally wears clothes and accessories culturally associated with the opposite sex. Most often specifically referring to cisgender men who wear women's clothing. This is not the same as being Transgender, though some individuals may consider themselves both Transgender and cross-dressers. Cross-dressers can be considered to be a form of gender non-conformity. |
| Gender | Is the social meaning given to sex. A person's gender role reflects the duties, qualities and expectations of society based on gender which includes how we have learned to walk, look, act, dress, what job we choose, what first name we have and so on. |
| Gender Dysphoria or Gender Identity Disorder (clinical terms) | A person with gender dysphoria can experience anxiety, uncertainty or uncomfortable feelings about the gender they were born with. They may feel that they have a gender identity that is different from their biological sex. The discomfort and/or distress experienced when an individual's sex assigned at birth does not align with their gender identity. Most Trans people (including non binary people) but not all experience this. Some Trans people do not experience gender dysphoria; and some people who experience gender dysphoria do not identify as Transgender. |
| Gender Expression | Refers to all external characteristics and behaviours that are socially defined as masculine, feminine or androgynous, such as dress, mannerisms and speech patterns. |

| | |
|--------------------------------------|---|
| Gender Identity | A person's innate sense of their own gender, whether male, female or something else (see non binary below), which may or may not correspond to the sex assigned at birth. |
| Gender Nonconforming | A broad range of people who express their gender differently from what most people expect for someone of the individuals gender identity. For example, a cisgender woman who prefers to present in a masculine way. Not the same as being Transgender, though it is possible to be both. |
| Gender Reassignment | <p>Gender reassignment has a specific legal definition under the Equality Act 2010 as someone who is "proposing to undergo, undergoing or having undergone a process (or part of a process) for the purpose of reassigning a person's sex"</p> <p>To undergo gender reassignment usually means to undergo some sort of medical intervention, but it can also mean changing names, pronouns, dressing differently and living in their self-identified gender.</p> <p>Gender reassignment is a characteristic that is protected by the Equality Act 2010, and it is further interpreted in the Equality Act 2010 approved code of practice.</p> <p>It is a term of much contention and is one that Stonewall's Trans Advisory Group feels should be reviewed.</p> |
| Gender Recognition Certificate (GRC) | By law, a person will be classed as their birth gender unless they apply for a GRC to change it legally. A name can be changed using a statutory declaration or deed poll. This enables Trans people to be legally recognised in their affirmed gender and to be issued with a new birth certificate. Not all Trans people will apply for a GRC and you currently have to be over 18 to apply. |
| Intersex | A term used to describe a person who may have the biological attributes of both sexes or whose biological attributes do not fit with societal assumptions about what constitutes male or female. Intersex people may identify as male, female or non binary. |
| Misgender | Is when someone refers to an individual (especially a Trans person) using a word, especially a pronoun or form of address that does not correctly reflect the gender with which they identify. If this is done deliberately with malicious intent then it is discrimination. |

| | |
|--------------|--|
| Non binary | An umbrella term for 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. |
| Non-gendered | A person who does not identify with any gender |

| | |
|--------------------|--|
| Pronoun | Words we use to refer to people's gender in conversation - for example, 'they', 'he' or 'she'. Some people may prefer others to refer to themselves in gender neutral language and use pronouns such as they /their and ze / zir. |
| Sexual Orientation | A person's emotional, romantic and/or sexual attraction to another person 'Heterosexual', 'bisexual' and 'homosexual' (i.e. gay or lesbian) are all sexual orientations. A person's sexual orientation is distinct from a person's gender identity and expression. |
| Trans | An umbrella term for people whose identity does not align with the sex they were assigned at birth. People under the Trans umbrella may describe themselves using one or more of a wide variety of terms. |
| Transgender | Refers to a broad range of people who experience and/or express their gender differently from what most people expect, either in terms of expressing a gender that does not match the sex listed on their original birth certificate (i.e. assigned sex at birth), or physically changing their sex. This can include people who identify as Trans women, Trans men, non binary or as a Transsexual (this list is not exhaustive). Trans is the abbreviated form |
| Transitioning | The steps a Trans person may take to live in the gender with which they identify. Each person's Transition will involve different things. For some this involves medical intervention, such as hormone therapy and surgeries, but not all Trans people want or are able to have this. |
| Transsexual | This was used in the past as a more medical term (similarly to homosexual) to refer to someone who Transitioned to live in the 'opposite' gender to the one assigned at birth. Some Trans people may prefer to be referred to as a Transsexual, but most do not. Do not refer to someone as a Transsexual unless they use this term to refer to themselves and/or have specifically requested you to do so. |

9: Audit and assurance

| Element to be monitored | Lead | Tool | Frequency | Reporting Committee |
|---|---|---|------------------|---|
| Record Keeping, to ensure managers are confidentially storing sensitive information | Employee Relations Team /Equality, Diversity & Inclusion Team / LGBT+ network | Audits of personal files | Annually | Transforming our Culture and Staff Experience (People Committee Subgroup) |
| Monitor gender identity applications through the recruitment process to improve working environments for trans and non binary employees | Equality, Diversity & Inclusion Team/ Workforce Team | Audit how the policy has been embedded across the trust | Annually | Transforming our Culture and Staff Experience (People Committee Subgroup) |

10. Appendices

Appendix 1 - Equality Impact Assessment

Appendix 2 - Action Plan

Equality Analysis Screening Form

A word version of this document can be found on the HR support pages on Connect

<http://connect/corporate/humanresources/managementsupport/Pages/default.aspx>

| | | | |
|--|--|---|--|
| Title of Proposal | Trans and Non binary Equality Policy for Employees | | |
| Person Completing this proposal | XXXX | Role or title | Senior Equality, Diversity and Inclusion Lead |
| | LGBT staff Network Leads Andy Chaffer | | LGBT+ Staff Network Chair and network members Unison Branch Sectary |
| Division | Human Resources | Service Area | Workforce and Inclusion |
| Date Started | January 2021 | Date completed | July 2021 |
| Main purpose and aims of the proposal and how it fits in with the wider strategic aims and objectives of the organisation. | | | |
| The Trust will go above and beyond to ensure best practice is embedded to support Trans and non binary staff employed by the Trust, providing full protection on the grounds of gender identity and gender expression. This is to be inclusive of all Trans and non binary people. The policy widens the Trust's Equal Opportunities Policies and is in line with the Equality Act 2010. | | | |
| Who will benefit from the proposal? | | | |
| The policy will benefit Trans staff, non binary staff, support managers and other staff in dealing with Trans and non binary issues in the working environment Trust wide. The policy will also advocate the Trust is providing an inclusive culture for all and will not tolerate any form of discrimination. | | | |
| Impacts on different Personal Protected Characteristics – Helpful Questions: | | | |
| <i>Does this proposal promote equality of opportunity?</i> | | <i>Promote good community relations?</i> | |
| <i>Eliminate discrimination?</i> | | <i>Promote positive attitudes towards disabled people?</i> | |
| <i>Eliminate harassment? Eliminate victimisation?</i> | | <i>Consider more favourable treatment of disabled people?</i> | |
| | | <i>Promote involvement and consultation?</i> | |
| | | <i>Protect and promote human rights?</i> | |
| Please click in the relevant impact box or leave blank if you feel there is no particular impact. | | | |

| Personal Protected Characteristic | No/Minimum Impact | Negative Impact | Positive Impact | Please list details or evidence of why there might be a positive, negative or no impact on protected characteristics. |
|--|--------------------------|------------------------|------------------------|---|
| Age | Yes | | | The age of a person is irrelevant to Transition. However you can only apply for a GRC if you are 18 or over. |
| Including children and people over 65 Is it easy for someone of any age to find out about your service or access your proposal? Are you able to justify the legal or lawful reasons when your service excludes certain age groups | | | | |
| Disability | | | Yes | Where a Trans and non binary person identifies they have a disability reasonable adjustments will be put into place where necessary. This will be supported by the current line manager where possible. |
| Including those with physical or sensory impairments, those with learning disabilities and those with mental health issues Do you currently monitor who has a disability so that you know how well your service is being used by people with a disability? Are you making reasonable adjustment to meet the needs of the staff, service users, carers and families? | | | | |
| Gender | | | Yes | The policy promotes individual rights in particular around gender identify and gender expression, and provides support to individuals and managers as to how this can be achieved in the working environment. |
| This can include male and female or someone who has completed the gender reassignment process from one sex to another Do you have flexible working arrangements for either sex? Is it easier for either men or women to access your proposal? | | | | |
| Marriage or Civil Partnerships | Yes | | | No impact |
| People who are in a Civil Partnerships must be treated equally to married couples on a wide range of legal matters Are the documents and information provided for your service reflecting the appropriate terminology for marriage and civil partnerships? | | | | |
| Pregnancy or Maternity | | | Yes | Trans people will have equal rights for pregnancy or maternity/paternity based on their gender identity in line with the Family Leave Policy. |

| | | | | |
|---|-----|--|-----|---|
| This includes women having a baby and women just after they have had a baby Does your service accommodate the needs of expectant and post natal mothers both as staff and service users? Can your service treat staff and patients with dignity and respect relation in to pregnancy and maternity? | | | | |
| Race or Ethnicity | | | Yes | All Trans and non binary people will be treated with dignity and respect regardless of their race or ethnicity |
| Including Gypsy or Roma people, Irish people, those of mixed heritage, asylum seekers and refugees What training does staff have to respond to the cultural needs of different ethnic groups? | | | | |
| What arrangements are in place to communicate with people who do not have English as a first language? | | | | |
| Religion or Belief | | | Yes | All Trans and non binary people will be treated with dignity and respect regardless of their religion or belief. The Trusts Spirituality Team can support where necessary. |
| Including humanists and non-believers Is there easy access to a prayer or quiet room to your service delivery area? When organising events – Do you take necessary steps to make sure that spiritual requirements are met? | | | | |
| Sexual Orientation | Yes | | | No impact |
| Including gay men, lesbians and bisexual people Does your service use visual images that could be people from any background or are the images mainly heterosexual couples? Does staff in your workplace feel comfortable about being 'out' or would office culture make them feel this might not be a good idea? | | | | |
| Transgender or Gender Reassignment | | | Yes | The policy promotes individual rights in particular around gender identify and gender expression, and provides support to individuals and managers as to how this can be achieved in the working environment. |
| This will include people who are in the process of or in a care pathway changing from one gender to another Have you considered the possible needs of Transgender staff and service users in the development of your proposal or service? | | | | |
| Human Rights | | | Yes | This policy will provide further awareness in regards to Trans and non binary people in line with The Human Rights Act. |

Affecting someone's right to Life, Dignity and Respect?
 Caring for other people or protecting them from danger?
 The detention of an individual inadvertently or placing someone in a humiliating situation or position?

If a negative or disproportionate impact has been identified in any of the key areas would this difference be illegal / unlawful? I.e. Would it be discriminatory under anti-discrimination legislation. (The Equality Act 2010, Human Rights Act 1998)

| | | | | |
|---|--------------------|----------------------|-------------------|------------------|
| | | No | | |
| What do you consider the level of negative impact to be? | High Impact | Medium Impact | Low Impact | No Impact |
| | | | | |

If the impact could be discriminatory in law, please contact the **Senior Equality and Diversity Lead** immediately to determine the next course of action. If the negative impact is high a Full Equality Analysis will be required.

If you are unsure how to answer the above questions, or if you have assessed the impact as medium, please seek further guidance from the **Equality and Diversity Lead** before proceeding.

If the proposal does not have a negative impact or the impact is considered low, reasonable or justifiable, then please complete the rest of the form below with any required redial actions, and forward to the **Senior Equality and Diversity Lead**.

Action Planning:

How could you minimise or remove any negative impact identified even if this is of low significance?

This policy will support staff and help them feel empowered; this will mitigate any potential negative impact.

How will any impact or planned actions be monitored and reviewed?

Any issues will be looked at by the Trusts Equality, Diversity and Inclusion Lead and also by the LGBT+ Staff Network. The Policy will be reviewed every 3 years or before if required.

How will you promote equal opportunity and advance equality by sharing good practice to have a positive impact other people as a result of their personal protected characteristic.

The policy will support managers to embed good practice into their everyday work. Training on Equality, Diversity and inclusion will be provided to staff to make them more aware of the inequalities that are faced by Trans and non binary people. The aim of this policy is to eradicate any form of discrimination, victimisation or harassment and bullying and create a safe environment for all.

Please save and keep one copy and then send a copy with a copy of the proposal to the Senior Equality and Diversity Lead at bsmhft.hr@nhs.net. The results will then be published on the Trust's website. Please ensure that any resulting actions are incorporated into Divisional or Service planning and monitored on a regular basis.

Appendix 2 - ACTION PLAN

The Trans and non binary employee and their manager might find it helpful to put in place an action plan, or to agree a check list to clarify the actions that will be taken over the course of the employee's Transition, dates by which these will be done, and the person who will take responsibility.

Please see use the table below to document your journey, the table can be modified to suit the individual's needs.

| |
|---|
| Are there any temporary or permanent changes / reasonable adjustments to the role which should be considered to support the employee? Considerations should include security aspects such as lone working, night working. |
| Is any time off required? If so how will this be managed? Consider flexible working methods, if appropriate) Time off for Transition should be recorded separately to sick leave |
| What will the employee's title and name be? What pronouns will be used? When will they start using these? Will there be any phasing? |
| Are there any dress codes to be considered? Are new uniforms needed? |
| If applicable, how will single sex working requirements be managed? |
| When and how should colleagues be informed of the Transition? |
| Is there any guidance material which the employee wishes to share with managers and colleagues? |
| Should the employee encounter unacceptable behaviour towards them (colleagues or service users) who should this be reported to? |
| Are there any other actions not covered by above? |
| Is there an agreed date for when this action plan will be disposed of in accordance with the requirements of the Data Protection Act 1998? |
| Actions agreed |
| Date of next meeting |

Who needs to know?

| | Who will tell them? | When? | Date completed |
|-------------------|---------------------|-------|----------------|
| Senior Manager | | | |
| HR Representative | | | |

| | | | |
|--------------|--|--|--|
| Line manager | | | |
|--------------|--|--|--|

| | | | |
|------------------|--|--|--|
| Team members | | | |
| Other colleagues | | | |
| Others (specify) | | | |

Changes to records

| | Who will do this? | When? | Date completed |
|----------------------------------|-------------------|-------|----------------|
| HR Records | | | |
| Name badge | | | |
| IT systems including email | | | |
| Website | | | |
| Voicemail | | | |
| Internet/intranet address entry | | | |
| Union membership | | | |
| Pension scheme | | | |
| Certificates/awards | | | |
| Personal file and related data | | | |
| Other professional Registrations | | | |

Details of meetings

| Date | Comments | Actions | Date of next meeting |
|------|----------|---------|----------------------|
| | | | |

| | | | |
|--|--|--|--|
| | | | |
| | | | |