

# Transgender Staff Guidance

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This guidance<sup>i</sup> applies to all staff and line managers, job applicants and former staff in some circumstances. There is a separate policy and guidance for transgender students.

This guidance applies where a job applicant, current or former member of staff discloses that they have or intend to transition to a gender other than the one they were assigned at birth.

The policy is set out in the Transgender Staff Policy document.

For an explanation of terms used in this guidance, please see the terminology section in Appendix G.

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## Introduction

This guidance has been created to inform, and to ensure that the support provided to trans staff before, during and after transition, is appropriate to their needs and circumstances, and that they are retained as valuable members of staff.

### **The Policy is set out in the Transgender Staff Policy document.**

This guidance provides information about the most important transgender issues in the form of frequently asked questions. Point 2 will get you up to speed quickly, and focuses specifically on the areas of confidentiality and changing University records.

Point 3 addresses issues to be managed during recruitment while Point 4 contains information about issues to be managed during employment. It includes step-by-step guidance from the point of disclosure, through documenting and implementing a Confidential Action Plan, to support after transition.

Point 5 focuses on the actions that need to be taken to change University records where this is requested by former members of staff.

Point 6 gives information about a range of practical issues, which will be relevant depending on individual circumstances, while Point 7 provides information about additional sources of support and information at the OU.

Appendix A is a separate document, providing a Confidential Action Plan template which should be used whenever a current staff member discloses their intention to transition, while the other Appendices provide additional resources for trans staff and line managers.

## 2. Frequently Asked Questions

### Understanding Trans Issues

#### **What is gender reassignment?**

In law, a person has the protected characteristic of gender reassignment where the person is proposing to undergo, is undergoing, or has undergone a process (or part of a process) to change their sex. Individuals are protected from discrimination whether or not they have or intend to undergo a medical procedure. Gender reassignment is a social transition process and not a medical one, although it may involve medical procedures.

#### **How long does gender transition take?**

This will vary significantly depending on how quickly the individual wants to transition, and the extent to which an individual plans to undergo medical procedures. Each individual situation is unique, but a typical process may involve: psychological assessment and diagnosis of gender dysphoria, commencement of 'real-life experience' (see below), after 3 months – commencement of hormone treatment, after 12 months – may undergo genital surgery, after 2 years – application made to Gender Recognition Panel for a Gender Recognition Certificate (GRC), GRC awarded and a new birth certificate issued.

#### **What is a Gender Recognition Certificate (GRC)?**

The sole purpose of a GRC is to instruct the appropriate UK Registrar General to make a new entry in the register from which a birth certificate can be issued. It is never appropriate to request a GRC from an individual.

### **What is 'real-life experience'?**

In order for an individual to receive hormone therapy, and thus begin the process of transition, they must have already lived in their gender role for a period of 3 months. In practice, this means being able to demonstrate that they have presented themselves in their new gender role in real-life situations, such as at work, in study, or other social situations. The real-life experience, or test, must be maintained for 2 years or more to obtain complete legal recognition in the new gender role. The start of this period is likely to be a particularly stressful time for many individuals.

### **What is gender 'transition day'?**

Some individuals will choose to live in their new gender role part-time, either on a permanent basis or as a prelude to living in their new gender role permanently, for example, an individual may choose to continue to present themselves in their birth gender at work, while beginning to live in their new gender at home.

At some point, an individual who intends to transition will want to begin their real-life experience at work. As used in this guidance, the 'transition day' refers to the day that the trans person will present themselves at work in their new gender. At this stage, an individual has not transitioned nor been legally recognised in the new gender. However, for all purposes, the University will treat staff as being in their new gender from the transition day.

### **How do I refer to a transgender person?**

Always use the name that a trans person has given themselves, and which is associated with how they present themselves at that time. If a trans person has transitioned so that they only present themselves in their new gender, any name associated with their previous gender should not be used for any purpose. It is not appropriate to use the previous and new name in conjunction with each other, for example 'Michael/Michelle' either in speech or in writing. This is degrading, likely to cause embarrassment for the individual and may breach confidentiality. Similarly, the correct pronoun (he or she) should be used to refer to the individual, and never used together for the same reasons as stated above.

### **Are there laws protecting transgender people?**

Yes, transgender people are protected from direct discrimination, indirect discrimination, harassment and victimisation. Individuals associated with transgender people and individuals perceived to be transgender, have the same protections.

Anyone receiving sensitive information (such as a person's trans status) in an official capacity is subject to data protection legislation and should comply with the University's data protection code of practice.

Under the Gender Recognition Act 2004, it is an offence for a person who has acquired protected information in an official capacity to disclose the information to any other person without the agreement of the individual.

For further information about the law, see Appendix F.

## **Informing Others**

### **When is it appropriate to tell others?**

Disclosure should never take place until an individual has given explicit consent. Once this has taken place, it is likely to be helpful to inform others before the individual commences their 'real-life experience' of coming to work living in their new gender. It also gives colleagues some time to get used to the idea and if they wish, to find out more about trans issues and gender reassignment.

Generally, only people that 'need to know' should be informed. This is likely to include staff who need to take some action to support the transition (e.g. to change University records) and individuals who are regularly in contact with the member of staff (e.g. staff in the department/unit, and students for some staff).

### **Who should tell others?**

It is for the individual to decide whether they would prefer to tell their colleagues and students if relevant, or whether they would prefer their line manager to perform this task. If required and appropriate, support will be made available from other staff such as Head of Department, Head of Unit, or National Director, to demonstrate support from senior University staff.

### **Who needs to be informed?**

The process of transitioning may present challenges for others such as work colleagues, or students, who may have limited knowledge of trans issues.

To avoid misunderstandings and establish clarity around what transitioning is and is not, it will be helpful to manage the reactions of colleagues, and students where relevant.

When thinking about work colleagues consider members of the immediate team, as well as others in the department and unit with whom the individual works, not forgetting colleagues in project teams or collaborative partnerships.

### **What might people want to know?**

It is likely that the majority of people will not know very much about trans issues or the process of gender reassignment, so a good starting point is to tell people about the individual's intentions and why, and what the process entails, so that they are better informed.

Colleagues or students may want to ask questions, so it would be good to anticipate questions that others might ask, for example:

- When will you start using your new name and what is it?
- What is your new email address?
- What are the arrangements for using toilet facilities or changing rooms?
- How will this affect you in your role?
- How can I/we support you?

### **What do people need to know?**

In addition to questions that individuals might ask, the following information should be communicated to ensure people are clear about what is expected of them:

- Basic ground rules for showing respect to transgender people – see the Trans respect guidelines in Appendix B
- The importance of confidentiality in relation to gender transition and the fact that gender reassignment is considered to be highly sensitive information under data protection legislation
- The implications for individuals of disclosing information inappropriately or of treating a transgender member of staff less favourably

- Sources of further information about gender reassignment – see Appendix E.

This guidance provides information about all of the above and it may be helpful to extract relevant information.

### **How should others be informed?**

There is no 'best' or 'one-size-fits-all' format for informing others since everyone is different and will have their own preference. Therefore, the format agreed between the individual and line manager should reflect the needs, circumstances and wishes of the individual. The number of people to be told, where they are located and the confidence of the individual discussing things of an extremely personal and sensitive nature will all have a bearing on the most appropriate method of communicating with others.

Line managers and individuals transitioning are asked to anticipate likely reactions of others when determining the most appropriate way of ensuring effective communications. Whilst communicating in person is likely to be preferable, it might not be practical, for instance for people working remotely or tutors needing to communicate with their students or work colleagues.

## **Changing University Records**

### **What are University records?**

University 'records' means:

- all documents, records and systems
- all media, such as paper as well as electronic, including email, blogs, forums, audio and video and covering all platforms for example all OU websites.

### **Why make changes to University records?**

Changes to records are required to protect the trans person's right to privacy and prevent disclosure of their status. In addition, changes will ensure the University maintains accurate records. Failure to change a person's title, name and gender when requested to do so could lead to offences under data protection legislation and the Equality Act.

### **What information about an individual needs to be changed?**

The information that usually needs to be changed due to gender transition is:

- Title
- Forename(s)
- Gender

### **What evidence is needed to change records?**

No documentary evidence is needed to change most University records.

The exception to this is changes relating to the Universities Superannuation Scheme, where additional proof of change of name and/or gender is required – see Point 6 'Pensions' for further information. For staff that have studied with the OU and require degree certificates to be issued in a new name, see the Transgender Students policy and guidance.

Never under any circumstances ask an individual to provide a Gender Recognition Certificate (GRC) or accept one as evidence even if offered by an individual.

### **What about consent?**

Explicit consent is required from an individual before any University records can be changed. This should be provided in writing, either by letter or by email.

### **Who will change the records?**

Some changes can be made by the individual staff member, some by the line manager, whereas others will need to be co-ordinated by the line manager but carried out by third parties due to restrictions on who has access to different systems. In all circumstances, records will only be changed with the agreement of the individual.

### **When should records be changed?**

The timing of change is important, and it is likely that the most significant and visible records will need to be changed on the transition day. See Point 2 'what is gender transition day?' for further information about the transition day. Some records, such as historical documents, which are unlikely to be accessed by others, might be changed later.

Some documents, where there is a negligible risk of being accessed by others, might not be changed at all. However, the schedule should be agreed with the member of staff.

### **What about an audit trail?**

It is vitally important that no information is recorded that gives any indication as to why the record has been changed, as this might directly or indirectly lead to disclosure of a person's trans status, which is unlawful.

### **Where do I start in identifying records?**

Some of the most commonly held records have been identified and listed in Appendix D. This is a good starting point. In addition to this list, the staff member will have some knowledge of where information about them is located. The type of work carried out, the job category and level of seniority, will all have a bearing on where records are stored and the extent of records kept.

### **Who decides on the final list?**

The staff member and their line manager work collaboratively on the list of records to be changed. A final list should be created well in advance of transition day, to allow adequate time to put actions in place. After the initial list has been finalised, additional records may come to light once the process has started, and the list can be updated to reflect this.

### **How far do I need to go in identifying records?**

There is no right or wrong answer here. The staff member and line manager will need to reach agreement on which records are to be updated. Where it is difficult to agree the extent to which changes should be made, the staff member and line manager are reminded that the aim is to take reasonable and practical measures to protect the individual's privacy, i.e. to prevent unintended disclosure of the person's trans status.

To illustrate, identifying every single document ever created by a staff member where they have added their name to the bottom of the document, for a career that spans 20 or more years, is unlikely to be reasonable, given that the likelihood of anyone accessing many of the oldest documents is negligible. Conversely, identifying formal committees that the individual has sat on for the past 3 years and requesting the official records of those committees to be changed is reasonable, given that the likelihood of individuals looking back on past papers is relatively high and the ability to identify those papers for amendment is straight forward.

### **How do I record what has been agreed?**

The list of records to be updated should be added to Appendix A - Confidential Action Plan, and maintained on that plan.

### **What are the options available for changing records?**

Generally, there are three options for changing records:

- *amend* i.e. remove out of date information and replace with new details
- *delete* i.e. permanently remove out of date records; if required a new record showing new details could be created
- *purge* i.e. remove existing record to a different location and restrict access, to reduce the risk of uncontrolled access to protected information.

### **How do I deal with scanned documents?**

For scanned items, options to change personal information include:

- use Microsoft Office Document Imaging or similar software to create a document you can edit, or
- print a hard copy of the scanned document, replace the former details on the hard-copy with new ones, re-scan the document, save as a new electronic document, delete the original scanned document, or
- in exceptional cases, where the document cannot be updated or replaced and must be retained, the only option is to restrict access.

### **What about consistency in records?**

Ensure all versions of documents are changed or deleted so that there is no reference to the former title, name and gender which might disclose a person's trans status. Owners of records may need assistance from the IT Helpdesk regarding any requirement to amend previous versions of documents in University systems, and any requirements to remove previous values from database records, where these are retained, e.g. in reports or audit trails.

### **Who can help to change records?**

Appendix D identifies records that may need to be changed, and in several cases, identifies third parties (for example the IT Helpdesk) who can provide assistance.

## **3. Supporting Job Applicants**

### **The application process**

Job applicants are not asked to declare if they are transgender, neither in the main application form, nor in the equal opportunities monitoring form. The University has agreed this policy so that it can protect the privacy of transgender individuals.

However, there may be times where an applicant who is in the process of transitioning, or who intends to transition in the future, may choose to declare this information as part of the application process, for a variety of reasons, for example because they are concerned about how others will react in the workplace, or because they are likely to request time off for medical appointments or procedures. This might happen through a covering letter, through an email, or at interview.



Individuals who declare transgender status should be informed about the University's transgender policy and guidance, and given reassurance that they will be treated with dignity and respect at all times, through the application process and subsequently in employment, if they are successful.

### **At interview**

A transgender individual may arrive at interview without having declared their transgender status. Depending on the stage of transition, it may be evident to the selection panel and others supporting the process that the job applicant is transgender. In such situations, it is never appropriate to discuss or ask questions about a person's gender, unless the job applicant takes the initiative to volunteer this information or clearly indicates that they wish to discuss it. Even in these circumstances, it is appropriate only to discuss issues that are relevant to the selection process and employment. It is never appropriate to ask private questions, for example, relating to medical procedures, in the same way that asking a woman whether she plans to have children is irrelevant.

### **Documents to prove eligibility to work in the UK**

To comply with immigration rules, the University requires evidence that individuals are eligible to work in the UK. Normally a valid passport or equivalent document is sufficient, although some combinations of other documents can be provided when a passport is not available. Transgender job applicants are able to obtain a valid passport in their new gender role prior to them receiving a new birth certificate, therefore many trans people will be able to provide the necessary documentation without needing to disclose their previous gender. There may be some situations where a new passport and/or new birth certificate have not yet been obtained. Where insufficient documentation is available in the new name, it is acceptable to request documents in the old name, but only where an applicant has not yet been legally recognised in their new gender, as evidenced by a new birth certificate. If this is necessary, it should be handled with sensitivity.

### **Making selection decisions**

Individuals who declare transgender status, and individuals who are perceived to be transgender, or associated with transgender people (for example, a candidate may declare that their partner or child or parent is transgender) will be treated in line with other job applicants and will receive no less favourable treatment.

## **4. Supporting current members of staff**

### **Step 1: Disclosure**

#### **Benefits of disclosure**

We encourage staff to disclose their intentions to undertake gender reassignment so that the University can support them effectively in their employment. The University respects the wishes of staff not to disclose this information. However, where this is the case, the University may not be able to respond appropriately. For staff that disclose, a range of support options are available to enable individuals to live in their acquired gender at work.

The line manager, with the individual's consent, is usually the person to co-ordinate support during transition. For Associate Lecturers (ALs) with more than one line manager, the Lead Line Manager will usually have responsibility.

#### **How to disclose**

Members of staff can inform their line manager of their intentions in the way that they feel most comfortable. For some this is likely to be during face to face discussions but for others it might be more appropriate during a phone call or in a letter – the choice is up to the

member of staff. A couple of example letters are provided in Appendix C. Regardless of the way the disclosure is made, it is a good idea to refer to the guidance when disclosing.

## Step 2: Initial Response from Line Manager

### Arrange a meeting to discuss the impact on the individual and their work

Upon notification of an individual's intention to undertake gender reassignment, the line manager will arrange to discuss without pressure and with appropriate sensitivity, how the transition may affect the individual in their employment.

Staff may be accompanied at meetings by a trade union representative, a work colleague, a family member or a friend, if that would make them feel more comfortable.

### Explain University policy and provide reassurance

During the initial discussion, the line manager will:

- explain that all staff can expect to be treated with dignity and respect at all times
- provide reassurance that the University will support the individual during their gender transition and explain the support that is available
- provide a copy of the University's transgender staff policy and guidance, if the staff member does not already have a copy
- provide assurance that information relating to trans status will be subject to tighter security arrangements to protect the privacy of the individual
- explain that the individual will be required to give **explicit** consent before their trans status can be discussed with others and before any records are changed
- explain that any complaint of unacceptable behaviour, for example transphobic abuse, harassment or bullying will be taken seriously by the University and investigated.

### Discuss timescales for the individual's transition

Some people may prefer to commence their real-life experience in all aspects of their life on a particular date, whereas others may prefer to adopt a phased approach, for example, living in their new gender at work but not in other aspects of their life.

The line manager should ask the individual to consider and advise (when known):

- the date they intend to commence their real-life experience in their preferred gender at work
- the date from which changes to records are required
- when they want work colleagues and if relevant, students to be informed – it is recommended this takes place before updating live staff systems to prevent interdependent systems being updated. For example, if an Associate Lecturer changes their name on a staff system, their new name will be visible to students on the StudentHome page.

### Request written confirmation of intentions and explicit consent

The line manager should ask the individual to:

- provide written confirmation (if not provided already) of their intention to undertake gender reassignment

- provide **explicit** written consent for the line manager to discuss their trans status with relevant colleagues on a strictly need to know basis
- provide **explicit** written permission to allow the University to amend, delete or purge University records with their agreement, to enable the University to protect their privacy by preventing disclosure of their trans status.

#### Discuss support options available:

The line manager should be aware of the practical support options as outlined in this guidance and should ensure that the member of staff is also made aware of these. Particular attention should be given to:

- identifying who needs to be informed, when, and how, and
- identifying priorities for changing University records.

### Step 3: Preparing for Transition Day – Documenting a Confidential Action Plan

#### Discuss and agree support

After the member of staff has had the opportunity to consider the various options available, the next step is for the individual to discuss with their line manager, the options they feel are most appropriate.

At all times the line manager should respect the individual's wishes and work with the individual to agree an action plan that is appropriate and acceptable to the individual.

Staff may be accompanied at meetings by a trade union representative, a work colleague, a family member or a friend, if that would make them feel more comfortable.

#### Document the support arrangements

As soon as the individual and the line manager have agreed the support to be provided, the line manager will document this, in the form of a Confidential Action Plan (see Appendix A for the template).

Both the member of staff and the individual will sign the Confidential Action Plan as a record of the agreement of support to be provided.

The action plan will include information about who will have access to the action plan and where it will be stored securely.

### Step 4: Just before Transition Day

#### Ensuring everything is in place

It is vitally important that everything that should happen on the transition day actually does happen. Even if 90% of the plan succeeds, one error such as a door name plate not being changed, is likely to have a significant damaging effect on the individual and will undermine all of the other good work that has been done to support the individual.

Therefore, before the day of transition, it is recommended that the line manager and the individual meet to take stock and review progress of arrangements. Checks could include arrangements related to:

- changes to records, systems and documents to be effective from the transition day
- the individual's new email address to be effective from the day of transition
- provision of a new identity card including requirement for any new photograph

- provision of a new name badge or door signage, if required
- prior notification to work colleagues and if appropriate, students
- use of single-sex facilities such as toilets, showers and changing rooms
- a media response plan, if appropriate
- support arrangements on the day, including arrangements if the member of staff will be working remotely or abroad.

### Reminding the individual about their rights and how to raise complaints

It may be useful for the line manager to remind the individual that they should expect to be treated with dignity and respect, and arrangements for dealing with bullying and harassment.

### Reminding work colleagues and others about the transition

It may be useful to remind work colleagues or others about trans respect guidelines (see Appendix B).

## Step 5: Transition Day

### At the start of the day

At the start of the day the line manager should check that records, systems and documents that should have been changed for the day of transition have actually been changed, for example, door signage, name badge, identity card, and email address etc.

The line manager should respect the wishes of the individual in terms of support provided on the day of transition. Some individuals may prefer a low key approach such as treating this day as just another working day, and others may prefer more visible support, such as introducing them to their work colleagues in their new gender role.

Whatever approach is preferred by the individual, the line manager should ensure that they welcome the individual at the start of the day of transition, addressing them in their preferred name and appropriate gender pronoun. This might be in person, by telephone or by email, depending on what is appropriate to the normal working relationship. Importantly, the member of staff should know how to contact the line manager during the day if any difficulties arise.

### During the day

If the line manager normally works in close proximity with the member of staff, they may wish to occasionally check that the member of staff is handling the transition day well. However, the line manager should bear in mind that continuous checking is likely to draw attention to the individual and may not actually be necessary.

The line manager should be vigilant to any issues of exclusion, bullying or inappropriate attention from other members of staff, or others, and address these as soon as they arise or as soon as they become aware of them.

Where individuals work remotely, the line manager should support the individual as agreed in advance with the individual.

### At the end of the day

The line manager and the staff member are encouraged to have a brief recap, either at the end of the day or as soon after as possible, to find out how the day went and whether there

are any issues that need to be resolved. This might be in person or by telephone, depending on what is feasible.

### **Step 6: After Transition Day**

#### **Post-transition practical support**

After the individual has settled into work in their acquired gender identity, continued practical support is likely to involve action in relation to the following:

- allowing time off for any medical appointments and/or treatment
- keeping the photograph on OU identity card up to date so that it remains a true likeness
- outstanding agreed changes to University records
- resolution of any potential difficulties or conflict that could undermine support being provided.

#### **Post-transition emotional support**

Transitioning to a new gender is a long and complex process and is unique to every individual. The day of transition to living in the acquired gender role is one step on a long journey, and many individuals are likely to require emotional support over many years, both before and after transition, often associated with how others react to their gender change and the stress that can arise from this. Most individuals will receive psychological support as part of their transition to a new gender. However, line managers should be vigilant to staff member's emotional and mental health condition, and should make individuals aware of the service provided by the Employee Assistance Programme, if the staff member agrees that this is appropriate and helpful.

#### **Maintaining the Confidential Action Plan**

The Confidential Action Plan should be reviewed from time-to-time and updated as circumstances change. It is recommended that the action plan is reviewed more frequently in the months after transition day, and less frequently the longer the individual is living in their new gender.

#### **Ending transitional support arrangements**

Support for the individual's transition should end through mutual agreement between the individual and the line manager. This could occur:

- after the individual has obtained legal recognition of their acquired gender, or
- at a mutually agreed point where support arrangements have been implemented and there are no issues relating to employment to be resolved.

On completion of transitional support, any remaining records that need to be retained related to the support provided to the individual are to be held securely and electronically by the People Hub. They should not be retained by the Unit or department.

## **5. Supporting Former Members of Staff**

### **Referral to appropriate team and allocation of named contact**

The most likely reason that a former member of staff will declare actual or intended gender transition to the University is because they are intending to apply for employment with another employer and that employer will be seeking a reference from the University. The

former member of staff may want to ensure that the University does not inadvertently disclose the previous gender to the new employer.

Requests relating to former internal staff should be referred to the People Hub, and requests relating to former AL staff should be referred to the Assistant Director, Associate Lecturer Services. A named contact will be appointed to liaise with the former member of staff and ensure that all necessary records are changed.

### Responsibilities of named contacts

The named contact is not required to develop a full action plan, which is appropriate only to existing members of staff.

The following responsibilities apply:

- With appropriate sensitivity, discuss the request with the former member of staff and obtain their explicit written permission to disclose information to other colleagues where necessary to enable University documents, records and systems to be changed.
- Where appropriate, explain to the individual that legal evidence of gender and name change will be required for the Universities Superannuation Scheme (USS). Never ask for a Gender Recognition Certificate – it is unlawful to do so.
- Co-ordinate changes with the former staff member and relevant University departments.
- In exceptional cases where the necessary changes cannot reasonably be made, explain to the former member of staff the reasonable alternative arrangements put in place, who will continue to have access to the information, and for what purpose.
- Store sensitive information appropriately in accordance with the requirements of data protection legislation.

### Updating University records

Written confirmation from the former staff member is sufficient to enable most University records to be changed, and it is not necessary to request proof of change of name or proof of gender transition. However, it is necessary to verify that the individual is who they say they are, to prevent attempts to impersonate a former member of staff.

If the individual has not fully transitioned, as evidenced by a new birth certificate, it may be appropriate to change only those University records that are necessary to ensure that the gender transition is not disclosed externally, for example if a reference request is made. Where a new birth certificate is provided, and where the individual requests that all references to previous gender are removed/amended, the University has a legal duty to comply with this request.

## 6. Practical Issues

### Criminal records checks

The Disclosure and Barring Service (DBS) and Disclosure Scotland\* both offer an application process that ensures discretion for transgender applicants who do not wish their previous gender and names to be disclosed to a new employer. Job applicants are therefore assured by these agencies that where the University requires a disclosure check, previous gender will not be disclosed.

## Dress code/uniforms

Where a dress code applies, the University recognises the advantages of dress codes/uniforms that have sufficient flexibility not to reinforce binary gender choice or gender stereotypes. We aim to adopt a style of dress code/uniform that is fit for purpose, meets the needs of women and men, and avoids practical difficulties for trans people.

Where relevant, the line manager will discuss dress code/uniform requirements with the individual so that the individual is provided with the appropriate clothing. If there is a health and safety reason for particular aspects of the dress code, the line manager will discuss these with the individual and consider options available to resolve the matter in a proportionate way.

## Employee Assistance Programme

The Employee Assistance Programme is a support/counselling service for all OU staff and covers a range of issues such as health and wellbeing, work-life balance, family circumstances and financial management. Information for staff to access the service is available on the People Services Intranet. Specific services funded by the University include telephone and face-to-face counselling, financial information service, legal information service, and specialist information service covering rights and responsibilities across a wide range of topics.

## Identification

An individual who has been legally recognised in their acquired gender by a Gender Recognition Panel is able to obtain a new birth certificate which does not disclose their birth gender. However, trans people who do not hold a Gender Recognition Certificate can obtain other official identification that refers to them in their preferred gender, such as a UK passport\*\* or UK drivers licence\*\*\*. In addition, P60 and P45 forms can be amended to reflect a person's new name.

The University is required to comply with legal restrictions on who can work in the United Kingdom and this could involve providing official documentation such as a passport, national identity card or work documents. Whenever possible, the University is flexible about the forms of identification which may be provided as part of the job recruitment process.

Where documents disclose a person's former gender identity, the University will keep such information confidential and limit access on a strictly need to know basis.

During transition, a person may use more than one legal identity, providing they do not use it for fraudulent purposes.

## Media response plan

If a transgender person believes there is a possibility of media interest in their transition or if they have a prominent external-facing role, they should contact Media Relations for advice, so that if required, a media response plan can be developed to respond to any media enquiries. The trans member of staff should be involved in the development of any media plan.

## Pension

The Universities Superannuation Scheme (USS) can amend the name of the individual in their pension records upon receipt of a statutory declaration of name change. However, before recording a change of gender, USS will require sight of a new birth certificate showing the new name and gender. A person who has obtained legal recognition from a Gender Recognition Panel will be able to obtain a new birth certificate.



To update USS records, individuals should take or send the appropriate documentation to Finance-Pensions@open.ac.uk. At no time will an individual be asked to provide a Gender Recognition Certificate (GRC).

Upon receipt of a new birth certificate, USS will use the new gender for all purposes with the exception of any Added Years contracts already in place, where USS will not revise the contracts to use different factors. Going forward, factors would be determined by the new gender for all purposes.

A person who has divorced or dissolved their civil partnership to obtain a GRC will need to review their pension arrangements.

The USS scheme includes provision for a death-in-service lump sum and a dependent's benefit. Therefore, it is important that the expression of wishes form and the registration of dependents form are kept up to date. These forms are confidential and kept unopened until the person dies, when they inform the trustees of the member's wishes.

## References

References for current or former members of staff that have transitioned will make no reference to the individual's former names, gender or pronoun. To do otherwise, without the person's consent, would be a breach of the data protection legislation and the Gender Recognition Act 2004.

Should the University receive a reference for someone who has previously transitioned, which refers to them by a previous name, it will treat that information as confidential.

## Single-sex and gender-specific facilities

Trans people are encouraged to use 'men-only' and 'women-only' areas where provided, such as toilets and changing rooms according to the gender in which they present. It is not acceptable to restrict a trans person to using for example accessible or unisex facilities, although they may use these facilities if that is their preference.

In some situations, it may be helpful to talk to work colleagues who use these facilities. However, this discussion should only take place with the consent of the individual.

Whenever possible, the University aims to provide private cubicles within existing changing facilities.

## Support and social groups

The Lesbian, Gay, Bisexual and Transgender (LGBT) staff network gives a voice to staff and enables issues of concern or interest to be shared and raised.

The LGBT Club provides a social network that brings LGBT staff and postgraduate research students together.

## Time off work related to gender reassignment

The University recognises that some trans people choose to undergo hormonal treatment and/or surgery to reassign their gender and need to take time off work, such as:

- medical appointments, for example, for psychotherapy, voice therapy or hair removal - appointments to see specialists might involve travelling long distances so could involve the individual taking a whole day or more off work.



- surgery and recovery from surgery - time off work will vary greatly from one week to twelve weeks, depending on the nature of the surgery and the physical demands of the individual's job.

Staff are encouraged to discuss timescales for medical treatment with their line manager as early as possible, so that appropriate work adjustments if required, or continuity arrangements, can be put in place during their absence.

Absence for reasons related to gender reassignment are recorded using the same system as for sickness or injury. However, details of the exact nature of the absence will not be recorded in order to protect the privacy of the individual.

A member of staff will not be treated unfavourably as a result of reasonable absences linked to their gender reassignment.

## 7. Further Support

For all staff, your line manager is your first point of contact if you require information or support relating to trans issues. Your line manager will be able to seek additional information and guidance from the People Hub as necessary.

The Equality, Diversity and Information Rights Team can provide additional advice and guidance on this area of policy.

## 8. Useful References

Transgender Staff Policy

Transgender Staff Guidance

Transgender Staff Guidance Appendix A - Confidential Action Plan (for current members of staff)

Bullying and Harassment Policy

Bullying and Harassment Code of Practice

Equality Scheme (on the Equality and Diversity Intranet)

## Notes

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<sup>i</sup> The Open University acknowledges the Equality Challenge Unit publication 'Trans staff and students in higher education' revised 2010, available at: <http://www.ecu.ac.uk/> In addition, the University acknowledges the support of the Gender Identity Research and Education Society (GIREs) in advising on this policy. For more information about GIREs please visit their website: <http://www.gires.org.uk/>.

**Appendix A: Confidential Action Plan (for current members of staff).**

The Transgender Staff Guidance Appendix A - Confidential Action Plan is contained in a separate document.

## Appendix B: Trans Respect Guidelines

- Think of the person as being the gender that they want you to think of them as.
- Use the name and pronoun that the person asks you to. If you aren't sure what the right pronoun is, ask. If you make a mistake with pronouns, correct yourself and move on. Don't make a big deal out of it.
- Respect people's privacy. Do not ask what their 'real' or 'birth' name is. Trans people are often sensitive about revealing information about their past, especially if they think it might affect how they are perceived in the present.
- Similarly, respect their privacy. Do not tell others about a person's trans status. If documents have to be kept that have the person's old name and gender on them, keep them confidential.
- Respect people's boundaries. If you feel it is appropriate to ask a personal question, first ask if it is ok to do so. Personal questions include anything to do with one's sex life, anatomy (not just genitalia) and relationship status – past, present or future. Questions such as 'Are you on hormones?' can be considered personal.
- Listen to the person, and ask how they want to be treated and referred to.

## Appendix C: Sample Correspondence for Trans Staff

### Informing your Line Manager about your Intentions to Transition

#### Example A

Dear [line manager]

I am writing to formally notify the University that I am intending to undergo gender reassignment to live in my preferred gender.

I have read the University transgender staff policy and I am keen to tell my work colleagues about how I feel and what I'm intending to do about it. I'm planning to change my name legally in the near future but for now, I would like the University to act upon this letter and update its records to refer to me in my new name of Mr David Bush in due course.

I welcome the opportunity to discuss with you how my decision will impact on my role and the support the University will be able to provide during my transition, in particular in helping me manage the impact of my medical treatment. I know it will take a bit of time to put in place the appropriate arrangements, but I am keen to get on with my job with the minimum amount of fuss.

Please can we meet to discuss updating records and fix an informal meeting where we can brief members of our team?

Yours sincerely

[signed]

Diana Bush

#### Example B

Dear [line manager]

I am writing to formally notify the University that I am intending to extend living in my preferred gender to my work. I have been living as a woman outside of my work for several months and have decided that I want to live as a woman all of the time. I have changed my name legally to Violet Heath by making a statutory declaration.

I have read the University transgender policy for staff.

I know my colleagues at work need to know that I am transitioning, but could you help me with this, as I am concerned that some colleagues might treat me differently in future, or deliberately use the wrong pronoun when referring to me?

Please can we meet to discuss this further, and what can be done to make my transition go as smoothly as possible?

Yours sincerely

[signed]

Violet Heath

## Providing Explicit Consent to Share Information and update University Records

### **Example A - providing consent to share information**

Dear [line manager]

I am writing to formally give you explicit consent to grant you permission as my line manager, to discuss my trans status and my gender reassignment/transition to my preferred gender with other colleagues at The Open University on a strictly need to know basis, so that appropriate arrangements can be put in place to support me during my transition.

I expect you and relevant colleagues to take all necessary steps to handle my personal information with sensitivity and appropriately to ensure my privacy.

I understand that under data protection legislation, I may withdraw my consent in writing to you at any time during the process of transitioning. If I do withdraw my consent, I understand that the process and any further action previously agreed in the Confidential Action Plan will cease.

Yours sincerely

[signed]

Violet Heath

### **Example B - providing consent to update records and systems**

Dear [line manager]

Please accept this letter as my consent to you as my line manager, to make the necessary arrangements for University documents, records and systems to be updated so that all references to me in my former name of Diana Bush are removed and replaced with my preferred name and gender, Mr David Bush.

I appreciate these changes might take some time to implement, so I have drawn up a list of what I consider to be my priorities (see below). I'm a member of a couple of committees and projects so I will give some thought to the records that I know will need to be changed but I'm content for records such as these to be changed at a slower pace. I welcome the opportunity to discuss changing records, so that we can agree priorities and a reasonable timescale.

These are the records I consider to be priorities:

- OU Staff Self Service (I can do), - ID card (Library card) (I can arrange with Security Warden) and name outside team office (I can arrange with office manager)
- Main People Services employment record/file including payroll, email address and Unit Intranet (the 'who we are' page).

I understand that under data protection legislation, I may withdraw my consent in writing to you at any time during the process of transitioning. If I do withdraw my consent, I understand that the process and any further action previously agreed in the Confidential Action Plan will cease.

Yours sincerely

[signed]

David Bush

## Appendix D: Checklists for Changing Staff Records

### Checklist for all University Staff

Description of records	Applies to		Relevant third party involvement
	Internal staff	AL staff	
<b>Personal information</b> on Staff Self Service ( <a href="https://msds.open.ac.uk/sss/index.aspx">https://msds.open.ac.uk/sss/index.aspx</a> ) including: title, forename(s), preferred forename(s), and gender (note that initials change automatically depending on forename(s) entered)	Yes	Yes	
<b>Pension records</b>	Yes	Yes	Email: Finance-Pensions@open.ac.uk
<b>University identity card</b> should contain accurate information and photograph updated as necessary to ensure it is a true likeness	Yes	Not usually	Security, Walton Hall Office Manager, if based in region/nation
<b>IT records</b> such as email address and OUCU. Please note that the OUCU may not need to be changed, as it cannot be used to identify an individual's gender – however it can be changed in exceptional circumstances at the staff member's request.	Yes	Yes	Email: IT-Infrastructure-Applications
<b>Records held centrally</b> such as appointments, promotions, complaints, disciplinary, grievances, volunteering, occupational health, reasonable adjustments, consultancy contracts, etc.)	Yes	Yes	Email: People Hub@open.ac.uk AL Services (for ALs)
<b>Unit, region and nation</b> records such as recruitment and selection, rewards, health and safety, first aid, fire prevention, unit planning, team/unit meetings, fund raising, events, presentations, minutes, procedures, staff lists, consultant records, etc	Yes	Yes	Relevant Unit managers: webmaster, administrative manager, team leader etc. Lead Line Manager for ALs Email: People-Hub@open.ac.uk or Resourcing-Hub@open.ac.uk
<b>Learning and development</b> certificates, records of attendance or achievement, etc.	Yes	Yes	Talent and Development AL Services (for ALs)
<b>Finance</b> records such as payroll, travel and subsistence, contracts and collaborative agreements	Yes	Yes	Finance Division AL Services (for ALs)
<b>Documentum</b> file management records and documents (including advice on amending different versions of the same document)	Yes	Possibly	IT helpdesk x54321

Description of records	Applies to		Relevant third party involvement
	Internal staff	AL staff	
<b>Sharepoint</b> records	Possibly	Possibly	Relevant Project or Programme manager or IT helpdesk x54321
<b>VOICE</b> CRM records	Yes	Yes	CRM Support Team email: <a href="mailto:VOICE@open.ac.uk">VOICE@open.ac.uk</a>
<b>Committee, board, group, programme</b> records such as minutes, terms of reference and mode of operation, membership lists, presentations, policies, procedures, websites	Yes	Possibly	Governance Team in the University Secretary's Office or Secretary to committee, group, or programme
<b>Project</b> records such as project mandate, project brief, business case, project plan, end of project report, post implementation review report as well as other documents and records including minutes and websites etc.	Yes	Possibly	Relevant Project Manager
<b>Collaborative partnerships</b> records such as contracts, agreements, minutes, records of visits and presentations etc.	Yes	Possibly	Relevant Partnership Manager
<b>Internal Communication</b> records such as OULife news, e-Newsletters, etc.	Yes	Yes	Internal Communications Manager, Communications
<b>External Communication</b> records such as OU news releases, OU website news, articles on Platform, etc.	Yes	Yes	Director of Communications, Communications
<b>OU club</b> records such as membership lists, events and activities, event posters and programmes	Yes	Yes	Relevant OU Club Secretary
<b>OU staff network</b> records such as membership lists, minutes of meetings, websites	Yes	Yes	Network Leader, Co-ordinator or Secretary

### Additional Checklist for Academic Staff

Description of records
Academic biographies
Course materials, such as books published in a former name
Peer reviewed articles in a former name
Records related to national or international committees to which they belong, or conferences at which they have presented information in a former name
Membership of internal and external academic networks in a former name
Awards received or other forms of internal or external recognition in a former name
Research published and other research activities such as the Research Excellence Framework
BBC programmes involvement such as a presenter or academic adviser in a former name
Involvement in informal learning materials

Please note that the above lists are not exhaustive.



## Appendix E: External Resources

### Equality Challenge Unit

For information about trans staff and students in higher education.

[ecu.trans](http://ecu.trans)

### Equality and Human Rights Commission

For information about the Equality Act 2010, guidance for employers and supporting transgender people.

[equalityhumanrights/gender-reassignment](http://equalityhumanrights/gender-reassignment)

### Gender Identity Research and Education Society (GIRES)

For information for trans people and for employers including about transition at work as well as research.

[gires](http://gires)

### Government Equalities Office

For information about the Government's action plan to advance transgender equality.

[homeoffice/transgenderequality](http://homeoffice/transgenderequality)

### The Gender Trust

The Gender Trust is a charity for helping trans people and all those affected by gender identity issues.

[gendertrust](http://gendertrust)

### Ministry of Justice

For information about the Gender Recognition Panel.

[justice/genderrecognitionpanel](http://justice/genderrecognitionpanel)

### Press for Change

Press for Change has been a key lobbying and legal support organisation for Trans people in the UK since it was formed in 1992. It provides legal advice, training, and research to trans people, their representatives, and public and private bodies.

[pfc.org](http://pfc.org)

## Appendix F: Legal Information

### Under data protection legislation (applies in the UK):

- Information about a person's trans status is considered 'sensitive personal data' and is subject to tighter controls than other personal data and requires explicit consent before it can be processed.
- Personal data must be looked after properly following data protection principles which includes ensuring personal data is accurate, secure and processed fairly and lawfully.
- Failure to change a person's title, name and gender when requested could lead to the following offences under the Act:
  - disclosure of personal information that is used, held, or disclosed unfairly, or without proper security
  - failure to ensure personal information is accurate and up to date
  - processing of data likely to cause distress to the individual.

### Under the Gender Recognition Act 2004 (applies in the UK):

- Where a full gender recognition certificate (GRC) is issued to a person (Section 9 of the Act):
  - it enables the person to have a new birth certificate in their new name and gender - which does not reveal their previous name and gender
  - the person is legally recognised for all purposes in their acquired gender
  - the new gender applies for the interpretation of documents made before as well as after the issue of the certificate – this gives a person that holds a GRC a right to request that references to their former name and gender be removed from old records to ensure their former identity is not revealed.
- It is an offence for a person who has acquired protected information in an official capacity to disclose the information to any other person without the agreement of the individual – 'protected information' means for people that hold a GRC:
  - protection covers information about their former gender
  - an application to correct errors in a GRC
  - an application for a full GRC from a person that holds an interim certificate
  - or an application to correct errors in a certificate, or for holders of an interim certificate, an application for a full certificate
  - The sole purpose of the GRC is to instruct the appropriate UK Registrar General to make a new entry in their register from which a birth certificate can be drawn.

### Under the Equality Act 2010 (applies in the UK):

- Gender reassignment is a protected characteristic and gives protection from discrimination to a person who is proposing to undergo, is undergoing or has undergone a process (or part of a process) to change their sex.
- Gender reassignment is included in the Public Sector Equality Duty which requires public authorities, in the exercise of their functions, to have 'due regard' to the need to:
  - eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act
  - advance equality of opportunity between people who share a protected characteristic and those who do not
  - foster good relations between people who share a protected characteristic and those who do not.
- Failure to change a person's title, name and gender on records when requested to do so could lead to unlawful discrimination.

### Under the Sex Discrimination (Gender Reassignment) Regulations (Northern Ireland) 1999:

- Individuals who intend to undergo, are undergoing or have undergone gender reassignment are protected from discrimination in work and in vocational training.
- Less favourable treatment relating to absences arising from gender reassignment are unlawful if:
  - The treatment is less favourable than if it had been due to sickness or injury, or
  - The treatment is less favourable than if it had been due to some other cause and, having regard to the circumstances of the case, it is reasonable not to be treated less favourably.
- Less favourable treatment includes the arrangements relating to terms, conditions or arrangements, on which employment or vocational training are offered.

## Appendix G: Terminology

### Acquired gender

The new gender of a person who has socially transitioned and had their gender reassigned and/or legally recognised. It is possible for an individual to transition and receive legal recognition of their acquired gender without medical assistance.

### Gender

Gender consists of two related aspects: gender identity, which is a person's internal perception and experience of their gender; and gender role or expression, which is the way a person lives in society and interacts with others. Gender is less clearly defined than anatomical sex, and does not necessarily represent a simple binary choice - some people have a gender identity that is neither clearly female nor clearly male. However, the overwhelming majority of the population has a gender that accords with their anatomical sex. It should be noted that currently, for the purposes of the law, gender is binary – people can only be male or female.

### Gender dysphoria and gender identity disorder

Gender dysphoria is a medical condition in which a person has been assigned one gender (usually at birth), but identifies as belonging to another gender, or does not conform to the gender role society ascribes to them. Gender dysphoria is not related to sexual orientation. People who have severe gender dysphoria are diagnosed with Gender Identity Disorder.

A person with gender dysphoria can experience anxiety, uncertainty or persistently uncomfortable feelings about their birth gender. They may feel that their gender identity is different from their anatomical sex. This dysphoria may lead to a fear of expressing their feelings and a fear of rejection, and in some cases, deep anxiety or chronic depression. Sometimes a person with gender dysphoria assumes an identity in the opposite sex. This may involve undergoing hormone and, perhaps, surgical procedures to change their sex.

### Gender presentation/expression

While gender identity is subjective and internal to the individual, gender presentation, either through personality or clothing, can determine how a person's gender is perceived by others. Typically, trans people seek to make their gender expression and presentation match their gender identity, rather than their birth sex.

### Gender recognition certificate

Gender recognition certificates (GRC) are issued under the Gender Recognition Act 2004 by a Gender Recognition Panel. The holder of a full GRC is legally recognised in his or her acquired gender for all purposes. This means that the person now belongs to their acquired gender in both a legal and a social context. A full GRC is issued to an applicant if they can satisfy the panel that they fulfil all the criteria outlined in the Gender Recognition Act 2004. The Act requires that the applicant has, or has had, gender dysphoria, has lived in their acquired gender for two years prior to the application, and intends to live permanently in their acquired gender. It is unlawful to ask a trans person for a GRC, as once a person has obtained a certificate, they are required to disclose their past only in very rare circumstances.

### Gender/sex reassignment

A person has the protected characteristic of gender reassignment under the Equality Act 2010 where the person is proposing to undergo, is undergoing or has undergone a process (or part of a process) to change their sex. The Act protects people who are not under

medical supervision from discrimination and the explanatory notes to the Act make it clear that gender reassignment is to be considered a social process and not a medical process.

Gender reassignment or transition includes some or all of the following social, legal and medical adjustments: telling one's family, friends, and/or colleagues; changing one's name and/or sex on legal documents; hormone therapy; hair removal; voice therapy and possibly (although not always) chest and/or genital surgery.

Gender reassignment is also referred to as sex reassignment. In fact, the term gender reassignment is considered by some to be inaccurate, as people with gender dysphoria do not change the gender with which they identify, they change their sexual characteristics to match their gender identity.

### Real-life experience or test

Real-life experience is a phase during gender reassignment in which the individual must live, work and study in the gender with which they identify, before they can start hormone therapy and/or undergo surgery. Real-life experience can also be called the real-life test.

### Sexual orientation

Sexual orientation is different from gender identity, and the two are not related. Trans people, like any other people, can be heterosexual, lesbian, gay or bisexual.

### Trans

An inclusive term for those who identify themselves as transgender, transsexual or transvestite. The term 'trans' can be used without offence, but should only be used as an adjective, for example 'a trans student'.

### Trans man

A person may describe themselves as a trans man – this is a person who is transitioning, or has transitioned from female to male.

### Trans woman

A person may describe themselves as a trans woman – this is a person who is transitioning, or has transitioned from male to female.

### Transgender

An umbrella term for people whose gender identity and/or gender expression differs from their birth sex. The term may include, but is not limited to, transsexual people and those who see themselves as not clearly fitting into a male or female identity. Transgender people may or may not alter their bodies hormonally and/or surgically. The term transgender should only be used as an adjective, for example, 'transgender people'.

### Transitioning

Transitioning is the term used to describe someone changing from one gender to another, with or without medical intervention.

### Transphobia

Transphobia is a term used to describe discrimination that can be experienced by trans people, which arises as a result of their expression of their gender identity.

### Transsexual person

A transsexual person is someone who feels a consistent and overwhelming desire to transition to their preferred gender. Individuals in this position will have the medical condition gender dysphoria. This term should only be used as an adjective; individuals should be referred to as 'transsexual people' not 'transsexuals'.

### Transvestite or cross-dresser

The terms transvestite and cross-dresser refer to someone who dresses in the clothing typically worn by the opposite sex. Generally, people who are transvestites/cross-dressers do not wish to alter their body and do not necessarily experience gender dysphoria.