

Transgender Staff Policy

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

This policy 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.

Guidance is set out in the Transgender Staff Guidance.

For an explanation of terms used in this policy, please see the terminology section in Appendix G of the Transgender Staff Guidance.

1. Introduction

The Open University recognises that some people transition from one gender to another with relative ease and others do not. Whatever the individual circumstances, the University will respond in a supportive way. While the number of people involved is relatively small in comparison to the size of the staff population, the impact of transitioning for an individual is large, and likely to be the most important factor in their life during that time.

The range of issues that a trans person has to deal with during the transition process is extensive, for example: psychiatric assessment to confirm a diagnosis, obtaining funds for treatment, dealing with the effect on family relationships, managing disclosure to others carefully, living in the new gender role for a period of at least two years to achieve full legal recognition, changing an extensive list of documents and records to protect identity, undergoing different therapeutic and medical treatments, and managing the reactions of others, which can sometimes lead to transphobic-related abuse or violence.

The policy and guidance

The policy and guidance have 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 Transgender Staff Guidance provides information about the most important transgender issues and covers recruitment, managing issues at point of disclosure, agreeing a confidential action plan, support after transition and changing University records.

2. Transgender Staff Policy

Policy aims

The University aims to create an inclusive trans-friendly environment in all Open University contexts, including all aspects of the workplace, the learning environment, research settings and online activities. For the workplace this means:

- A workplace that is *responsive* to the needs of gender variant, transsexual and transgender staff that enables transgender staff to live in their preferred gender role, and to work effectively.
- A workplace that is *free from discrimination, harassment, and victimisation*, where everyone is treated with dignity and respect, including transgender people, people associated with transgender people and people perceived to be trans.
- A workplace where transgender people are retained as valuable members of staff and can access opportunities for development and advancement.

The University will respect a person's choice not to disclose their gender identity or to seek any support. However, where this occurs, the University may not be able to respond appropriately. Staff are therefore encouraged to discuss individual circumstances with their line manager.

The University recognises that some people transition from one gender to another with relative ease and others do not. Whatever the individual circumstances, the University will respond in a flexible and supportive way.

Rights and responsibilities

All trans staff have a right:

- To choose whether to disclose their gender identity and to whom and in what circumstances this may be disclosed.
- To request that the University updates its documents, records and systems to reflect their new gender.
- To request the level and type of support during their transition that is appropriate to them.

All staff have a responsibility to:

- Treat everyone in all Open University contexts with dignity and respect.
- Challenge or report incidents of discrimination, bullying and harassment, or victimisation, relating to gender identity.
- Not pass information about a person's trans status to any person without the explicit permission of the individual.
- Comply with the law in relation to gender reassignment that is in force in Great Britain and Northern Ireland*.

Line managers supporting a trans member of staff have a responsibility to:

- Discuss with the individual how their transition may affect them in their employment, without pressure and with appropriate sensitivity.
- Provide reassurance to the member of staff that the University will support them during their transition and explain the options for how this can be provided.
- Respect the wishes of the individual, agree and document (in the form of a confidential action plan) how the University will provide the support requested by the individual to help them during their transition.

- Store sensitive information appropriately in accordance with the requirements of data protection legislation.
- Implement the action plan agreed with the individual, including reviewing progress until the transition has been completed or to a point agreed with the individual.
- Obtain explicit permission from the individual before discussing their gender transition with others, for example, with colleagues involved in updating staff records.
- Change University records only with the explicit permission of the staff member.
- As appropriate to the circumstances, promote understanding of gender identity issues amongst other staff with whom the individual has a working relationship, for example, colleagues in the team, department, unit, project or collaborative partnership.
- Resolve any potential difficulties or conflict that could undermine support provided by the University to a transitioning member of staff.

Named contact nominated to support former staff member

Following an approach from a former member of staff requesting the University to update its documents, records and systems that refer to them in their previous gender, a named contact** will be nominated to discuss their request and co-ordinate necessary changes.

Named contacts have the following responsibilities:

- With appropriate sensitivity, discuss the request with the former member of staff and obtain their explicit 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.

Support available to trans staff

The University will support trans staff flexibly so that they can perform their duties effectively and, where relevant, can meet the requirements of living in their new gender role. The point at which a disclosure is made will have a bearing on what support is appropriate, for example, whether disclosure is made during recruitment, while in employment, or having left employment.

An individual that has already transitioned fully will have different needs to a person that intends to transition. Some types of support will be needed by all staff e.g. ensuring University records are amended where necessary, whereas some support will be appropriate in particular circumstances e.g. a tutor informing students about their transition. Individuals will be made aware of the options and will be able to select what is appropriate to their circumstances.

Staff learning and development

All members of staff are expected to complete the Diversity Compliance e-learning module as part of their induction. This module incorporates information about gender reassignment including relevant equality law and experiences of trans staff in higher education. Line managers and named contacts supporting an individual will find it helpful to refresh themselves by reviewing the module content. Links to further online resources are provided in Appendix E of the guidance.

Confidentiality and dealing with complaints

To disclose information about a person's trans status without their permission is a form of harassment. It is an offence under the Gender Recognition Act 2004 for a person who has acquired information about a person's trans status in an official capacity, to disclose the information to any other person without the explicit agreement of the individual.

All complaints of unacceptable behaviour including for example transphobic abuse, harassment or bullying will be taken seriously by the University and investigated. The 'Bullying and Harassment Code of Practice on behaviour at work for staff' provides a framework for dealing with complaints confidentially, fairly and in a consistent manner. Breaches of the Bullying and Harassment Policy may lead to the use of disciplinary procedures.

3. Equality, Diversity and Inclusion

Policies are inclusive of all Open University staff, regardless of age, care experience, caring status or dependency, civil status, disability, family status, gender, gender expression, gender identity, gender reassignment, marital status, marriage and civil partnership, membership of the Traveller community, political opinion, pregnancy and maternity, race, religion or belief, sex, sexual orientation, socio-economic background or trades union membership status.

4. Useful references

Transgender Staff Guidance

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

ⁱ The Open University acknowledges the Equality Challenge Unit publication 'Trans staff and students in higher education' revised 2010, and the support of the Gender Identity Research and Education Society (GIREs) in advising on this policy.

* For details of relevant legislation, see Appendix F of the Guidance.

** The named contact nominated to support a former member of staff will usually be a senior manager located in the People Hub (for ex-internal staff) or in Associate Lecturer Services (for ex-Associate Lecturer staff), as appropriate.