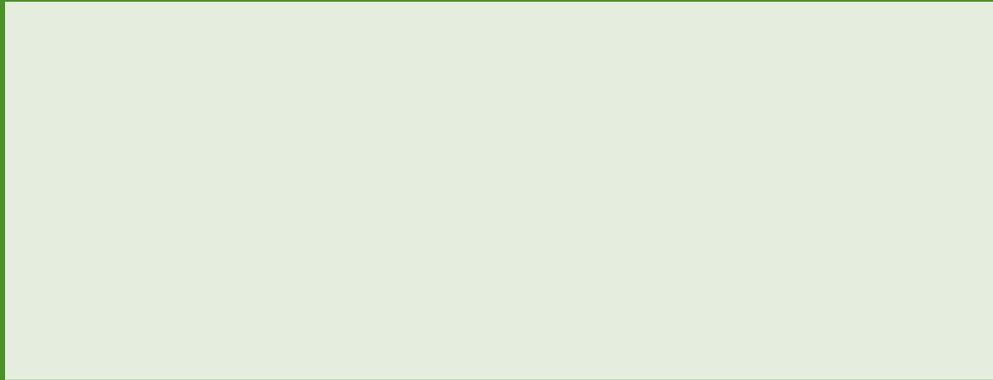


Trans staff and students in HE and colleges: improving experiences



Acknowledgments

This is the third edition of Equality Challenge Unit's (ECU) guidance on transgender staff and students.

Equality Challenge Unit would like to thank the higher education sector in the UK, colleges in Scotland and trans organisations for their suggestions. In particular:

- = Ayrshire College: Marla Baird and Sara Turkington
- = Gendered Intelligence: Simon Croft and Jay Stewart
- = Gender Identity and Research Education Society: Bernard Reed OBE and Terry Reed OBE
- = Scottish Transgender Alliance
- = Supporting Professionalism in Admissions: Dan Schaffer
- = UCU: Seth Atkin
- = University of Liverpool: Darren Mooney
- = University of Salford: Arron Pile
- = University of Strathclyde: Naseem Anwar and Matson Lawrence

Equality Challenge Unit welcomes comments and suggestions for future editions of this publication.

Although every effort is made to ensure the information contained within this publication is accurate and up to date, ECU cannot be held responsible for any errors or omissions. The information is not a substitute for legal advice, and should you require more specific advice you should consult an appropriately qualified professional adviser.

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Foreword



Heather Dunk OBE
Principal and Chief
Executive, Ayrshire College

I am delighted to support Equality Challenge Unit's development of revised trans guidance for the college sector. This guidance will benefit students and staff within our colleges, including, those who are about to begin their transition journey, those in transition and the staff who are supporting them. There is a growing number of trans individuals in colleges and this reflects the inclusive nature of our sector. This guidance will help staff understand the complex issues that a trans individual might face as well as help them to ensure that the most appropriate support is provided.

Understanding individual needs is essential to providing a positive learning experience and ensuring that all individuals can achieve their full potential.

Tackling inequalities is a key objective in the college sector and providing inclusive opportunities, as well as individualised support, is essential for the learner journey.



Professor Michael Arthur
President and Provost,
University College London

Trans equality is an evolving equality area and I am pleased to support the development of this revised trans guidance by ECU. Regardless of where an institution is in terms of their trans equality agenda, regular informed updates are a must.

At UCL we are working to keep abreast of the latest thinking and development in this area. Our current plans involve refreshing our guidance for students in collaboration with our students' union liberation officers. We aim for our guide to be inclusive of the whole trans community.

We know that identifying as trans is not always about transitioning gender. Increasing numbers of our students are identifying as non-binary or genderfluid, so transitioning (whether medically or socially) is not relevant to them. Nevertheless we want these students to be treated with respect and dignity just like their peers, and not feel pressured to be confined by traditional gender roles or expression by the prevailing culture of UCL.

Within this same context we are reviewing our trans guidance relating to staff. This also involves the challenge of ensuring our human resource systems for recoding gender identity do not present barriers for trans staff, regardless of how they identify

when they arrive at UCL or when already in our employment. Of course in addition to written guidance we have an obligation to provide appropriate training for staff who interface with students and manage or work alongside colleagues who identify as trans. So we need to continuously review the content of our training and ensure compliance.

An exciting development this year is that our established LGBTQ+ staff network has been extended recently with the establishment of an allies network – Friends of OUT@UCL. Allies will receive training organised by our LGBTQ+ staff network to provide quality assurance. Our intention is to encourage commitment, involvement, and activity beyond the LGBTQ+ staff community. We firmly believe that trans equality, diversity and inclusion (along with any area of equality, diversity and inclusion) is everybody's responsibility. We will be reviewing the impact of this allies network in due course.

The ECU guidance document is an enabler to support all of this work.

Trans staff and students in HE and colleges: improving experiences

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Glossary of terms

In order to understand trans issues, it is important to be aware of the variety of terms that may be used both socially and legally.

Terminology changes and its use can be highly individualised. It is important to be mindful of trends in language as a staff member or student may associate with a term perceived by some, even members of the same community, to be inappropriate.

This glossary covers the terms used in this publication and elsewhere.

Acquired gender

A legal term used in the Gender Recognition Act 2004. It refers to the gender that a person who is applying for a gender recognition certificate (GRC) has lived for two years and intends to continue living in. **Affirmed gender** may be used when a person has transitioned but has decided not to apply for a GRC.

Cisgender

A term used to describe people who are not transgender. Cisgender is based on the Latin prefix cis which means 'on this side of'. The Latin prefix trans means 'across from' or 'on the other side of'. The use of cisgender is debated within the trans community and some people prefer the term non-trans as it familiarises the use of the term trans (see below).

Dual role

A dual role person occasionally wears clothing and/or makeup and accessories that are not traditionally associated with the sex they were assigned at birth. Generally, dual role people do not wish to transition and do not necessarily experience gender dysphoria. Some people prefer the term **alter ego**.

Historically the terms transvestite and cross dresser were used to describe dual role people, but they are now considered to be outdated. While some people may use the terms to describe themselves, other people may find the terms offensive.

Gender

Gender refers to the cultural and social distinctions between men and women. It consists of three related aspects: a society's constructed **gender roles**, norms and behaviours which are essentially based on the sex assigned at birth; **gender identity**, which is a person's internal perception of their identity; **gender expression**, which is the way a person lives in society and interacts with others. Gender does not necessarily represent a simple

binary choice: some people have a gender identity that cannot be defined simply by the use of the terms woman or man. It should be noted that currently, for the purposes of UK law, gender is binary – people can only be male or female. However, there is growing pressure from campaign groups for this to change in line with other countries including Australia, Bangladesh, Denmark, Germany, India, Nepal and New Zealand.

Gender expression

While gender identity is subjective and internal to the individual, gender expression refers to all of the external characteristics and behaviours that are socially defined as either masculine or feminine, such as clothing, hairstyle, make-up, mannerisms, speech patterns and social interactions.

Typically, trans people seek to make their gender expression match their gender identity, but this is not always possible. It is best practice to not assume someone's gender identity on the basis of their gender expression. If you are not sure, it is best to ask a person how they would like to be addressed.

Gender incongruence and gender dysphoria

Gender incongruence is a medical term used to describe a person whose gender identity does not align, to a greater or lesser extent, with the sex assigned at birth. Where this causes discomfort it is known as gender dysphoria. **Gender dysphoria** 'is a term describing the discomfort or distress caused by the discrepancy between a person's gender identity (their psychological sense of themselves as men or women) and the sex they were assigned at birth (with the accompanying primary/secondary sexual characteristics and/or expected social gender role)' (NHS, 2013).

Gender dysphoria is not considered a mental health issue but unmanaged dysphoria or the social stigma that may accompany it and any changes a person makes to their gender expression can result in 'clinically significant levels of distress' (NHS, 2013).

In order to qualify for NHS medical assistance to transition, a trans person in the UK must have a diagnosis of gender dysphoria. As not all trans people have gender dysphoria this presents a significant barrier to accessing medical support and the provisions of the Gender Recognition Act. See page 17.

Gender reassignment

The legal term used in the Equality Act to describe the protected characteristic of anyone who 'proposes to undergo, is undergoing or has undergone a process (or part of a process) for the purpose of reassigning the person's sex by changing physiological or other attributes of sex' (Equality Act, 2010).

This is the protected characteristic that protects trans people from discrimination, victimisation and harassment in employment, education and when using services. Importantly, the act requires no medical supervision or interventions for a trans person to be afforded protection.

Gender recognition certificate

Gender recognition certificates (GRC) are issued by the gender recognition panel under the provisions of the **Gender Recognition Act 2004**. The holder of a full GRC is legally recognised in their acquired gender for all purposes. 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. Applicants can be UK residents or from recognised overseas territories who have already acquired a new legal gender. The act requires that the applicant is over 18, has, or has had, gender dysphoria, has lived in their affirmed gender for two years prior to the application, and intends to live permanently according to their acquired gender status. See page 17.

It is never appropriate to ask a trans person for a GRC and regarded as unlawful because it breaches their right to privacy. Once a person has obtained a GRC their gender history can only be disclosed where there are explicit exceptions in law:

- = in accordance with an order of or proceedings before a court or tribunal, when it is strictly relevant to proceedings
- = for the purposes of preventing or investigating crime, where it is relevant
- = for the purposes of the social security system or a pension scheme

See page 24 for the forms of identification that you can ask a trans person to provide, should you need to.

Gender variance

Gender variance, also referred to as gender non-conformity, is behaviour or gender expression that does not match socially constructed gender norms for men and women.

Intersex

An umbrella term used for people who are born with variations of sex characteristics, which do not always fit society's perception of male or female bodies. Intersex is not the same as gender identity or sexual orientation.

Until recently, parents of intersex babies were encouraged to elect for surgery so that their child would conform to stereotypical male or female appearances. As a result, many intersex people can encounter difficulties as the gender assigned at birth may differ from their gender identity and surgery may have compromised sexual, urinary and reproductive function. Today, parents are advised to delay surgery until their child reaches puberty so that the child can inform decision-making. Some parents do not observe this advice and attitudes will vary country by country. Not all intersex people opt for surgery, and many will consider themselves to be intersex rather than male or female.

Some intersex people may decide to transition to their self-identified gender and start to identify as trans.

Legal sex

A person's 'legal' sex is determined by their sex on their birth certificate and the assumption made at birth is that their gender status (boy, girl) matches. For higher education institutions (HEI's) and colleges a person's legal sex is only relevant for insurance, pension purposes and in rare cases occupational requirements. See section 2: policies.

For the purposes of everyday life (including banking, personal identification and travel), a person's legal sex may not be the same as their self-identified gender. For instance, a trans woman can have identity documents such as a passport, driving licence and employment records based upon her gender as female, but still have a birth certificate which states that she is male.

Lesbian, gay, bisexual, trans plus (LGBT+)

While being trans or having a trans history is different from sexual orientation, the forms of prejudice and discrimination directed against trans people can be similar to those directed against lesbian, gay, bisexual plus (LGB+) people and historically the two communities have coexisted and supported each other. As a result, advocacy and support groups often cover LGBT+ issues. Trans people can also identify as LGB+.

Non-binary

Non-binary is used to refer to a person who has a gender identity which is in between or beyond the two categories 'man' and 'woman', fluctuates between 'man' and 'woman', or who has no gender, either permanently or some of the time.

People who are non-binary may have gender identities that fluctuate (genderfluid), they may identify as having more than one gender depending on the context (eg bigender or pangender), feel that they have no gender (eg agender, non-gendered), or they may identify gender differently (eg third gender, genderqueer).

Research by the Scottish Transgender Alliance (2016) found that 65 per cent of non-binary respondents identify as trans. Just as with trans men and trans women, non-binary people transition and live their lives in various ways – which may or may not include medically transitioning (ie taking hormones or having surgeries).

Pronoun

A pronoun is the term used to refer to somebody for example she/her/hers/herself or he/him/his/himself. Gender-neutral pronouns include

- = they/them/their/themselves
- = che/chim/chis/chimself
- = E/Em/Eir/Eirs/Emself
- = Per(person)/pers/perself
- = Xe/ hir/ hirs/ hirsself

Real-life experience or experience

'Real-life experience' or 'experience' are the terms used by the medical profession and refers to the period in which an individual is required to live, work and study full-time in their affirmed

gender before they can undergo genital surgery. Previously the requirement applied to hormone replacement as well as genital surgery. Some trans staff and students may be asked by a gender identity clinic to provide confirmation from their institution that they are undertaking real-life experience or experience.

Self-identified gender

The gender that a person identifies as. The trans community is campaigning for UK law to be based on self-identification as is currently the case in other European countries. ECU recommends that colleges and HEIs recognise a student or staff member's self-identified gender.

Sex

Sex refers to the biological status of a person as male or female in their physical development. Sex is judged entirely on the genital appearance at birth but internal reproductive organs, skeletal characteristics and musculature are also sex differentiated.

Sexual orientation

Sexual orientation is different from gender identity. Trans people, like any other people, can have a wide range of sexual orientations beyond those recognised by the Equality Act including heterosexual, lesbian, gay, bisexual, asexual, pansexual, omnisexual and demisexual.

Trans and transgender

Trans and transgender are inclusive umbrella terms for people whose gender identity and/or gender expression differs from the sex (male or female) they were assigned at birth. The term may include, but is not limited to, trans men and women, non-binary people and dual role people. Not all people that can be included in the term will associate with it.

The terms trans should only be used as an adjective, for example, trans people, trans man or trans woman. However, a trans person may say 'I am trans'.

Trans history

A person with a trans history will have transitioned to their self-identified gender. Consequently, they may no longer identify as a trans person, and simply see their transition as one part of their history.

Trans man

A person who was assigned female at birth but identifies as a man or towards the masculine end of the gender spectrum. He usually uses male pronouns and is likely to transition to live fully as a man. The terms 'female-to-male' or 'FtM' are shorthand for indicating the direction of a person's transition but these terms can be seen as offensive. Other people may use these terms to describe themselves.

Trans woman

A person who was assigned male at birth but identifies as a woman or towards the feminine end of the gender spectrum. She usually uses female pronouns and is likely to transition to live fully as a woman. The term 'male-to-female' or 'MtF' are shorthand for indicating the direction of a person's transition but these terms can be seen as offensive. Other people may use these terms to describe themselves.

Transition

Transition is the process of a person changing their social role in order to match their gender identity. Examples of transitioning include telling friends, family and colleagues, changing names, asking people to use different pronouns, and changing the way gender is expressed. For some people, this may involve medical assistance such as hormone therapy and surgery.

Transphobia

Transphobia is a term used to describe the fear, anger, intolerance, resentment and discomfort that some people may have as a result of another person being trans. This can result in discrimination, harassment, victimisation and hate crime.

Transsexual

Transsexual is a term that was traditionally used to describe a person diagnosed with gender dysphoria. Increasingly trans people are not comfortable with the use of this term preferring instead trans or transgender. While some people may find the term offensive, others may use it to describe themselves.

Introduction

The support of managers and colleagues, staff and fellow students helps to ensure a positive experience for trans people who decide to share their trans history, identity or decision to transition.

This guidance uses the term trans as an umbrella term. It includes trans men and women, non-binary people and dual role people.

ECU receives frequent queries from institutions and colleges who are supporting trans staff and students. This guidance is aimed at staff in higher education institutions (HEIs) across the UK and colleges in Scotland, who manage staff or support or teach students. It will also be useful for staff working in students' unions or associations.

ECU's (2009) research, *Experiences of lesbian, gay, bisexual and trans staff and students in higher education: research report 2009*, highlights that being trans or having a trans history can have a significant impact on student and staff experience, progression, promotion and retention:

- = 22.6 per cent of trans students have been bullied or discriminated against since starting university
- = 28.5 per cent of trans students have taken time out of their course
- = 23 per cent of trans staff reported that they have been denied promotion due to their trans status

Research by the National Union of Students (2014) into trans students in higher education highlights the barriers trans students can face:

- = a lack of gender-neutral toilets and facilities
- = a lack of policies to update name and gender in the student register
- = issues with university security services
- = the prevalence of transphobia
- = access to sport
- = access to single-sex spaces including accommodation

Research by ECU (2009) identified barriers experienced by trans staff including:

- = changing personal details on institutional records

- = being asked not to use toilets or changing facilities that correspond to their gender identity and expression
- = misunderstandings of the duties imposed on HEIs by their request for a gender recognition certificate (GRC) of proof of new identity

Significantly, research highlights that the barriers trans people experience can negatively impact on their mental health (NUS, 2014). Similar research has not been undertaken on the experiences of trans staff and students in colleges in Scotland but the barriers identified are likely to be similar.

While the higher education and college sectors have made significant progress since the publication of ECU's first trans guidance in 2008, more work needs to be done to ensure that trans staff and students have a positive experience. Whatever the individual circumstances, it is important that institutions are flexible, supportive, and that an environment that is inclusive of trans people is fostered, in part through the consideration of trans people in the development and implementation of policy, procedures and practice.

Each trans person is different: not all trans people will transition; of those who do transition, some will transition with ease while others may need more support; some trans people will express their self-identified gender full-time and others will express it part-time; and some trans people may regularly change their gender expression. Not all trans people will seek medical assistance as part of their transition, and some people may identify and express their gender outside typical social and cultural norms. Some younger trans people choose not to, or cannot, transition or share their trans identity because of their age, lack of financial means or opposition from their family. Older trans people may fear losing their job and family, or may lack the financial means to transition. Some trans people are happy to be out about their trans identity or history while others are not.

Data on the trans community in the UK is limited and estimates of the size of the community are primarily based on the number of people seeking medical assistance to transition. This means that trans people who are not medically transitioning are often not included in estimates of the size of the trans community.

Patient number data from gender identity clinics in the UK between August and October 2015 (UK Trans Info, 2016)

	Patients under care of clinics at end October 2015	Number on waiting lists at end October 2015	Number discharged between August and October 2015
England	8361	4532	488
Northern Ireland	193	40	28
Scotland	1063	485	1
UK total	9617	5057	517

Note: Wales does not have a gender identity clinic and adult patients in Wales are referred to the Charing Cross clinic in London.

The Equality and Human Rights Commission (EHRC) commissioned research that suggests approximately 1 per cent (650,000) of the UK population experiences some degree of gender variance (EHRC, 2012). ECU research found that gender identity was a factor in the choice of university for 23.7 per cent of trans students (ECU, 2009) and therefore colleges and HEIs with an established reputation for being trans friendly may see higher numbers of trans staff and students. There has also been a significant increase in the number of children seeking medical assistance and this has implications for the number of trans applicants and students who may be in the process of transitioning.

What’s in the guidance

Section 1: Legislation: an overview of relevant law

Provides a comprehensive overview of equality legislation covering trans people in England, Wales, Northern Ireland and Scotland. This section also covers the Gender Recognition Act, the Data Protection Act, the Human Rights Act, and the Legal Aid and Sentencing Act and their implications for trans people and the work of HEIs and colleges to promote trans equality.

Section 2: Trans equality and trans inclusive policies

Explores ways in which trans equality can be promoted within your HEI or college. It also covers practical issues, including name changes and identity requirements, qualification and degree certificates, confidentiality including changing staff and student records, leave policies, pensions, funding and field trips.

Section 3: Culture: building a trans inclusive environment

Includes trans respect guidelines and explores the use of language, names, titles and pronouns. It suggests steps that can be taken to help prevent discrimination and harassment and also makes suggestions for ensuring facilities, services and estates are inclusive.

Section 4: Supporting individuals: responsibilities when supporting trans applicants, staff, students and alumni

Outlines colleges' and HEIs' responsibilities for supporting trans applicants, students, staff members and alumni. The steps that need to be taken to support trans people, including during an individual's transition are outlined, as well as those needed to manage any negative reactions of staff or students.

Section 5: Data: understanding your trans population

Considerations for HEIs and colleges when collecting data on their trans population. It includes suggested monitoring questions and provides an overview of the data collection requirements in relation to the Equality Act and relevant sector agencies.

Resources and tools

You will find references, ideas for further reading and useful contacts at the end of this guidance.

In addition, we have created a number of online tools including:

- = staff and student case studies
- = a model policy statement on trans equality
- = a checklist of aspects to consider when supporting a trans person
- = templates for individuals to use to inform their institution of their trans identity
- = a downloadable leaflet for managers and tutors on supporting staff and students

Visit www.ecu.ac.uk/guidance-resources/inclusive-environment/providing-support/trans-people

1 Legislation: an overview of relevant law

Legislation in the UK covering gender reassignment and gender equality has resulted in significant progress for the trans community.

However, evidence to the House of Commons Women and equalities committee (2016) highlighted that it is regarded as overly medicalised and bureaucratic. In 2016, the UK government committed to reviewing one of the main pieces of legislation intended to improve the experiences of trans people, the Gender Recognition Act. In the meantime, HEIs and colleges will need to look beyond the Gender Recognition Act and consider the intention of equality legislation to ensure a positive experience for trans applicants, staff, students and alumni.

The Equality Act 2010

The Equality Act 2010 applies to England, Scotland and Wales. Gender reassignment is one of nine protected characteristics under the act. The protected characteristic of gender reassignment applies to a person who 'proposes to undergo, is undergoing or has undergone a process (or part of a process) for the purpose of reassigning the person's sex by changing physiological or other attributes of sex' (Equality Act, 2010). Importantly, the EHRC technical guidance states that 'under the [Equality] Act gender reassignment is a personal process ... rather than a medical process. Protection applies from the moment the person indicates their intention to start the reassignment process, even if they subsequently change their mind. The act does not require someone to undergo medical treatment in order to be protected' (EHRC, 2012).

In short the act affords protection to the following people.

- = **Trans people including applicants to and students in post-school and higher education, former students, employees and former employees.** School children are also protected but the harassment provisions of the act do not apply to them.
- = **People who experience direct discrimination or harassment because they are perceived to be trans.** The report of the Women and equalities committee and the government's response (House of Commons, 2016) highlight that **non-binary people are afforded protection** under the discrimination by perception provisions of the Equality Act. Consequently, colleges and HEIs in England, Scotland and Wales should ensure their policies and procedures are inclusive of all trans people.

- = **People who experience direct discrimination or harassment because they are associated with someone who has the protected characteristic of gender reassignment.** For example, it would protect the parents/guardians of a trans person from being discriminated against or harassed because their child is transitioning.
- = **People who are victimised** because they have asserted their rights under the Equality Act, have helped someone else to do so, or are suspected of doing so or intending to do so. For example, a member of staff experiences hostile treatment from their manager after they supported a complaint about the treatment of a trans colleague.
- = **People who experience indirect discrimination as a result of a provision, criterion or practice** that may appear neutral, but its impact causes disadvantage that is not considered to be a proportionate means of achieving a legitimate aim. For example, a blanket policy of not changing names or gender on student and staff records may cause trans people significant disadvantage as it will cause them difficulties when going about their day-to-day life at their HEI or college.

Find out more

For further information on the terms used in the Equality Act see ECU's 2010 guidance, *Equality Act 2010: implications for colleges and HEIs revised*:

www.ecu.ac.uk/publications/equality-act-2010-revised/

Public sector equality duty (PSED) of the Equality Act 2010

Section 149 of the **Equality Act 2010** places a general statutory duty on all public authorities when carrying out their functions, to have 'due regard' to the need to:

- = eliminate unlawful discrimination, harassment and victimisation
- = advance equality of opportunity between different groups
- = foster good relations between different groups

This requires institutions to have 'due regard' to the need to address and eliminate discrimination and harassment of trans people.

To ensure the needs of the trans community are taken into account, trans advocacy groups as well as staff and students can be consulted. Consulting external advocacy groups is likely to be particularly helpful if HEIs or colleges do not have many trans staff and students who wish to be consulted. It is rarely appropriate to base policy decisions on the views of a single student or staff member.

To demonstrate due regard to the need to eliminate discrimination and harassment against trans people colleges and HEIs can:

- = ensure that policies and practices relating to recruitment, employment, admissions, teaching and learning, dignity at work and harassment, estates, facilities and services are inclusive of trans people and, where appropriate, refer explicitly to trans equality issues
- = consider developing a specific policy on gender identity in partnership with trades unions and students' unions or associations; see our online resources for an example statement: www.ecu.ac.uk/guidance-resources/inclusive-environment/providing-support/trans-people
- = ensure trans perspectives are included in the analyses of equality information and data and the equality impact assessment/equality analyses processes; see *Building capacity for equality impact assessment in colleges: handbook for trainers* (ECU, 2013)
- = provide training and written guidance for staff on how to support trans staff and students, including a brief overview of relevant law
- = set up a support network for trans staff and/or students; if numbers are small, join with other public sector organisations (eg local authorities, health authorities, other post-school education providers and the police)

Find out more

In addition to the general duty, specific duties also apply in England, Scotland and Wales. For further information on the specific duties in England, Scotland and Wales see: www.ecu.ac.uk/guidance-resources/equality-legislation/public-sector-equality-duty

Positive action provisions of the Equality Act

The Equality Act allows for positive action measures to be taken to help overcome disadvantage. Positive action can be used in the recruitment and promotion of staff as well as for students. Adopting positive action is voluntary.

Positive action can help to alleviate disadvantage experienced by trans people, reduce their underrepresentation in relation to particular activities, and meet their particular needs. Given the limited data on the trans community it is difficult to quantify underrepresentation, but where HEIs collect monitoring data they may gain an understanding of the outcomes for trans applicants, student attainment and staff progression. Positive action could include the following:

- = providing additional support to trans applicants through the admissions or recruitment process
- = using the tie breaker in recruitment or promotion whereby two candidates for a role are of equal merit
- = providing mentoring to trans staff and students
- = specifically considering trans people in bursary, scholarship and prizes policies (see ECU, 2012, *The Equality Act 2010: positive action through bursaries, scholarships and prizes*)
- = the provision of gender-neutral toilets and changing facilities in light of the findings of ECU (2009) and NUS (2014) research
- = working in collaboration with local trans organisations to raise awareness of support provided for trans people in universities or colleges

Such measures would need to be justifiable and a proportionate way of achieving the legitimate aim.

The Sex Discrimination (Gender Reassignment) Regulations (Northern Ireland) 1999

The Sex Discrimination (Gender Reassignment) Regulations (Northern Ireland) 1999 amended the Sex Discrimination (Northern Ireland) Order (SDO) 1976 and prohibit discrimination, harassment and victimisation on the grounds of gender reassignment in employment and vocational training. Gender reassignment is defined in the regulations as ‘a process which is undertaken under medical supervision for the purpose of reassigning a person’s sex by changing physiological or other characteristics of sex and includes any part of such a process.’ This means that an individual does not need to have undergone any specific treatment or surgery to be covered by the law and is protected if planning to undergo, are undergoing or have undergone gender reassignment.

The law covers the areas of employment and vocational training, access to goods, facilities and services and the disposal or management of premises. Vocational training is not defined under the SDO (1976), with the exception of the provision that ‘it is any training which would help fit ... [a person] for any employment’ (SDO, 1976). However, Article 24 of the SDO explicitly refers to both colleges and universities and the Equality Commission for Northern Ireland makes clear that trans people cannot be discriminated against in relation to admissions or access to courses or other benefits, facilities or services provided.

Northern Ireland Act 1998

Section 75 of the Northern Ireland Act does not mention gender reassignment but for the purposes of this guidance, the Equality Commission for Northern Ireland has informed ECU that it would consider it good practice for institutions in Northern Ireland to consider gender reassignment aspects in the delivery of their wider equality duties.

Disability

There is a high prevalence of mental health conditions within the trans community due to the barriers trans people face in society. Consequently, the disability provisions of the Equality Act and the Special Educational Needs and Disability (Northern Ireland) Order 2005 (SENDI) and the Disability Discrimination (Northern Ireland) Order 2006, including the requirement to make reasonable adjustments, may apply to trans staff and students:

'Where an individual has been diagnosed as having 'gender dysphoria' or 'gender identity disorder' and the condition has a substantial and long-term adverse impact on their ability to carry out normal day-to-day activities, they will also be protected under the disability discrimination provisions of the act.'

EHRC, 2014: Section 2.28

Reasonable adjustments could include the provision of counselling or adjusting working hours or coursework deadlines for reasons relating to a person's transition.

The Gender Recognition Act 2004

The Gender Recognition Act 2004 covers all four countries of the UK and allows trans people to apply to the gender recognition panel to seek full legal recognition of their self-identified gender. The gender recognition panel, made up of lawyers and doctors, requires applicants to demonstrate that they:

- = are 18 years old or over
- = have, or have had, gender dysphoria
- = have lived in their self-identified gender for at least two years, ending with the date on which the application is made
- = intend to continue to live in their self-identified gender for the rest of their life
- = have medical reports containing specified information

If an applicant is successful, they will be issued with a full or interim GRC. Interim GRCs are only issued in England, Scotland and Wales if a trans person is married and they or their spouse do not want to remain married. In England and Wales a full GRC is issued once the marriage has ended but in Scotland people with an interim GRC can apply to the Sheriff Court for a full

certificate thereby bypassing the need for their spouse's consent to end the marriage. Civil partnerships must be ended or converted into a marriage prior to applying for a GRC. As same sex couples cannot get married in Northern Ireland trans people are issued with an interim GRC until their marriage is annulled.

If the holder of a full GRC had their birth registered in the UK, they will be issued with a new birth certificate which does not disclose the fact that there has been a change from their sex as recorded on their original birth certificate. If a trans person's birth is registered abroad they will need to apply for a new birth certificate from the country in which they were born. However, not all countries issue new birth certificates.

Once a full GRC has been issued, a trans person is required to contact HM Revenue and Customs (HMRC) with their national insurance number in order to change their record.

Further information can be found at:

www.gov.uk/apply-gender-recognition-certificate/overview

Crucially, the Gender Recognition Act gives trans people privacy rights. Anyone who acquires information that a person is trans or has a trans history in an official capacity (in the course of their job, for instance) is liable to criminal proceedings if they pass that information to a third party without the permission of the individual. For example, this could be as a staff member in relation to a student, as a purchaser in relation to a supplier or as a club captain in relation to a club member.

The act has implications for the management of staff and student records as trans people who have a GRC can request that any reference to their previous gender, and if applicable their previous name, is completely removed from their record. See page 31 for further information on records.

In terms of employment, a person holding an interim GRC should be treated as though they have received a full GRC.

The government announced a review of the Gender Recognition Act in 2016 as it is considered to be medicalised and bureaucratic in its approach. The **Council of Europe's resolution 2048 on discrimination against transgender people in Europe** is considered best practice as it highlights the need for '...quick, transparent and accessible procedures based on self-determination'.

The Data Protection Act 1998

Under the Data Protection Act 1998, which applies to all four countries of the UK, trans status and gender reassignment constitute 'sensitive data' for the purposes of the legislation. Therefore information relating to a person's trans status cannot be recorded or passed to another person unless conditions under schedule 3 of the Data Protection Act for processing sensitive personal data are met. These include but are not limited to the need for an individual's **explicit consent** for information to be processed. The definition of processing under the act is very broad and covers both data and information in relation to obtaining, recording or holding the information and data or carrying out any operation on them.

The Human Rights Act 1998

The Human Rights Act 1998 applies to all four countries of the UK and provides protection to trans people, principally under the right to a private life (Article 8). The courts have interpreted the concept of 'private life' in a very broad way to cover, among other things, a person's right to express a sexual identity, to live a particular lifestyle and to choose the way they look and dress. It also means that personal information (including official records, photographs and letters) should be kept securely and not shared without the permission of the individual concerned. In addition, the right to privacy states that unless a public authority is acting in accordance with the law, there should be no interference by a public authority with a person's exercise of their right to a private life.

Article 3 gives a right to freedom from torture and inhuman or degrading treatment. It may be used to prevent degrading treatment of a trans person, for instance, excluding them from facilities that are appropriate to their gender.

The Legal Aid, Sentencing and Punishing of Offenders Act 2012

This act applies to the four countries of the UK and amends the Criminal Justice Act 2003 to include aggravation related to transgender identity. This means that offences committed because the victim is trans are required to be treated as hate crimes.

Hate crime

Some colleges and HEIs are hate crime reporting centres. It is good practice to provide information to staff and students on how to report hate crimes. Further information can be found at <http://report-it.org.uk/home>

2 Policies: trans equality and trans inclusive policies

There is increasing public awareness of trans issues, yet members of staff, potential members of staff, students, applicants or alumni who are trans may have anxiety about how colleagues or fellow students, student services, human resources, an academic department or alumni relations will respond to them.

It is good practice to ensure that staff are familiar with gender identity issues and understand the range of trans experiences people may have. This will help them develop the confidence to include trans people effectively and help to ensure that the HEI or college is trans inclusive.

Good practice in inclusion is ensuring the following.

Existing staff or students:

- = can be open about their trans status or experience if they choose to; this can lead to a reduction in stress and improved performance
- = feel able to transition or share their trans identity
- = remain on their programme of study while transitioning
- = are not inadvertently discriminated against

Potential members of staff or students:

- = can be open about their trans status or history without fear of discrimination if they choose to; this may result in people performing better in interview and including information on their trans experience in their application forms and personal statements
- = are aware that the HEI or college is committed to equality for trans people, and in turn may be more willing to accept a job or a place on a course of study
- = see trans and other equality and diversity issues covered within recruitment and application materials

Trans equality policies

Having a trans equality policy is a very powerful way of communicating to staff and students (and prospective staff and students) that trans rights are taken seriously. Colleges and institutions can also consider mainstreaming trans equality alongside other equality areas throughout their work.

In addition to ensuring trans equality is included in policy it is important to consider how it is implemented in practice, such as having:

- = information on provision for trans staff and students in marketing and recruitment materials
- = information on provision during staff and student induction or welcome events
- = staff training that covers trans issues; this not only helps to create an inclusive environment but also enables a college or HEI to demonstrate that it has taken steps to fulfil its legal obligations
- = information on expected behaviour towards trans staff and students in student handbooks
- = support and guidance for trans staff and students to enable them to navigate record changes, conversations with their peers and other issues. Is there a dedicated contact person within the HEI or college who will oversee the changes and support required by trans staff and students whether they have a trans history or are transitioning?
- = consideration of trans issues and visibility in the development of events programmes
- = consideration of trans issues in estates planning
- = consideration of trans issues, visibility and history in the development of curriculum and related course materials

Further suggestions can be found throughout this guidance and in *Pride and prejudice in education: an exploration of experiences and perceptions of sexual orientation and gender identity among post school education learners and staff*.

<https://sgforum.org.uk/wp-content/uploads/2016/02/Pride-and-Prejudice-in-Education-report.pdf>

Named contact

Many public sector organisations, including HEIs and colleges, now have named staff with responsibility for supporting trans staff, students or service users. The purpose of their role is to coordinate any support and changes required and to ensure the trans person is aware of the support, facilities and services available.

HEIs and colleges can consider adopting this model. The contact for applicants, staff, students and former students can be different as the experiences and needs of these groups differ. It is also important that the contact understands the processes in detail and has the ability to request changes are made. Consequently it may make sense for a staff member in human resources to be the staff contact and a staff member within student services or equivalent to be the student contact. Depending on the institution, it may also be appropriate for responsibility to rest with more than one person.

HEIs and colleges should also be aware that staff, students, applicants and alumni may raise their trans experience with other staff or trade union/students' union representative. Consequently, having and raising awareness of guidelines, policies or procedures that outline how an applicant, student, employee or former student will be supported is recommended.

Indicators of successful policies

Whether or not an institution currently monitors trans staff and students, the following indicators can be used by colleges and HEIs to review their policy provision and the effectiveness of existing policies for trans staff and students.

- = Trans students and employees feel supported.
- = Employees who transition are retained as valued members of staff.
- = Students who transition are able to complete their programme of study.
- = Barriers to the recruitment and retention of trans staff and students have been identified and removed.
- = A clear and workable policy is in place for dealing with harassment of trans staff and students.
- = Support mechanisms exist to protect the health and welfare of trans staff and students.
- = Groups are established to provide a voice for trans staff and students.
- = There is evidence that the institution promotes and maintains a culture of respect for the dignity of individuals.

- = There are appropriate protocols for the management of sensitive and confidential information about a person's trans status.
- = Practical matters relating to transition, such as access to changing and toilet facilities, are resolved quickly and respectfully.
- = Curriculum provision is not based on gender stereotypical assumptions or imagery.

Identity

Policies around identification and use of names may impact negatively on trans people.

Name changes

In the UK it is possible to change your name informally. However, formal change of name facilitates the change of identification, bank accounts and in relation to education, degree and qualification certificates.

HEIs, colleges and other agencies should recognise statutory declaration of name changes as well as evidence of change of name by deed poll. **Trans organisations including Press for Change and Scottish Transgender Alliance recommend that trans people formally change their name by making a statutory declaration of name change** under the Statutory Declarations Act of 1835. The act applies in all of the UK. **These organisations provide templates for making a statutory declaration of name change** (see section 6: resources and tools for contact details).

Press for Change does not recommend the use of deed poll to change names. To have the same legal standing as a statutory declaration of name change, a deed poll has to be enrolled. Enrolment costs over £100 and when enrolled, deed polls are listed in public records meaning they are not private.

Students under the age of 16 will require parental consent to change their name. In England, Scotland and Wales all people with parental responsibility are required to give permission for a name change. In Scotland, the consent of only one person with parental responsibility is required but that person is required to declare that they have consulted all people with parental responsibility. The requirement for parental consent means that

some young trans people will be unable to change their name even if they wish to do so and qualifications gained prior to turning 16 may not be in their chosen name.

Some trans people choose not to change their name formally straight away, have no intention of changing their name or are unable to if they are not out with their family. Young trans people, in particular, may use a nickname or a shortened version of their full name. It is good practice for tutors or managers to ask all new students or staff their preferred name.

If a trans student changes the name under which they are registered at the institution, they will also need to notify the agency or institution that has funded their course, any sponsor and their bank to ensure payments are not delayed.

A trans member of staff will need to ensure they have notified their bank, pension scheme, and so forth.

Trans staff, students and applicants will need to be made aware of the implications of not formally changing their name in relation to:

- = qualification and degree certificates prior to their being issued (see pages 27 and 28)
- = their bank, funder, HMRC, UCAS
- = their permanent/correspondence address

The implications will vary by institution and will in part be determined by the records management systems used.

Identification

Trans people do not need to have a GRC nor a medical diagnosis before the DVLA or Passport Office will change their name, gender marker (M/F) and title (Mr, Mrs, etc) on documentation. However, trans people under the age of 16 will need parental support to change their details and some trans people will be financially dependent on, but not out to, their family meaning that they are unable to change their documentation.

Some EU and international non-binary staff and students will have passports that reflect their non-binary identity. Countries including Australia, Bangladesh, Denmark, India, Nepal and New Zealand issue passports with gender marker X, Other, T or E.

The UK government now specifies the type of identification both students and staff are required to present during enrolment or on commencement of post. This is a passport, visa or birth certificate combined with other forms of identification. In some countries, trans people cannot apply for a new birth certificate and passport and even where they can, it can be complicated for people with dual residency or nationality. While **it is unlawful to ask a trans person to show their GRC**, a person may choose to use their GRC as evidence of their identity.

If a university or college requires identification for other purposes, staff and students should be given the option of providing more than one type of official identification, for example a driving licence, passport or birth certificate plus supporting documents.

A trans person or a person with a dual role can use more than one legal identity, as long as they do not use their different identities for fraudulent purposes. Consequently, HEIs and colleges may need to provide more than one identification card. Additional cards may also be required for the library and students' union.

Bank accounts

Trans people do not need to have a GRC nor a medical diagnosis before banks are obliged to change their name, gender marker (M/F) and title (Mr, Mrs, etc) on their account. The requirements of banks for evidence of name and gender change do differ and some will need to see a passport and, if applicable, a visa before changes can be made.

However, trans people under the age of 16 will need parental support to change the personal details on their bank account and some trans people will be financially dependent on, but not out to, their family meaning that they are unable to make changes. This has implications for payments between a college, HEI or funder and some trans staff and students.

International staff and students

Some countries do not have a process in place to enable their citizens to change their gender on identification documents. In other countries trans people can experience societal hostility and persecution. Consequently some international students and staff may not have identification in their self-defined gender and

may seek to transition while working and studying in the UK. Others may have had their self-defined gender legally recognised by another country and may be eligible to apply for a GRC.

Trans foreign nationals whose national authorities do not recognise changes to names and/or gender in their passports or national identity cards can obtain a biometric residence permit in their chosen name and self-identified gender. See www.gov.uk/government/uploads/system/uploads/attachment_data/file/404748/Align_Change_of_Name_Guidance_-_v1_0.pdf

If a student or staff member is faced with returning to a country where they have a well-founded fear of persecution due to their gender identity they can make an asylum claim.

Qualification certificates

Providing proof of qualification is often a requirement of employers and education providers. Consequently some trans people may be forced to out themselves or decline an opportunity should the name on their qualification certificates differ from that on their identity documents.

Qualification must state the formal name of a student, not a name by which a student wishes to be known. Colleges can ensure that students are informed of this prior to certificates being issued as students will need to formally change their name and show proof of formal name change (eg a statutory declaration of name change or deed poll) in order for a certificate to be issued under a name different from that under which they registered.

Colleges in Scotland are responsible for requesting and considering evidence of name change and informing the Scottish Qualifications Authority (SQA) of learners' name and gender changes. At present gender is only required for SQA registration and does not appear on qualification certificates. Further information on the process and evidence required can be found at:

www.sqa.org.uk/sqa/75545.html

Qualification bodies may state that they do not accept name changes after the closing date for entries in the year that the examination was taken. However, like SQA, they should have specific procedures in place for trans people.

Degree certificates

Providing proof of qualification is often a requirement of employers and education providers. Consequently some trans people may be forced to out themselves or decline an opportunity should the name on their degree certificates differ from that on their identity documents.

Legal standing of degree certificates

HEIs are granted degree-awarding powers by either a Royal Charter, Act of Parliament or the Privy Council. In order to be granted degree-awarding powers they must have rigorous systems and safeguards in place in accordance with Quality Assurance Agency (QAA) guidance, which focuses on ensuring 'the collective security of the UK degree brand in a global environment'.

A degree certificate is a statement that an individual as named on the certificate has demonstrated the competencies required for an award at a particular level at a particular point in time. A degree certificate has no independent legal standing and its status is determined by each awarding body's governing documents and policy, not by an independent, statutory provision.

Name on a degree certificate

There is no law that states that the name that appears on the certificate must be the same as the name in which a student registered. However, it is important that each institution complies with its own governing documents and policy in this regard.

HEIs with degree-awarding powers need to balance the protection of the degree integrity from the risk of fraud. They will also need to ensure that they maintain accurate records for UK visa and immigration purposes as well as for numerous professional bodies.

Therefore, unless the student can demonstrate that they have formally changed their name prior to graduation, it is likely to be considered reasonable in law for an institution to require that the name on a degree certificate is the same as the name in which a student registered.

HEIs can ensure that students are informed of the need to formally change their name by statutory declaration of name change or deed poll prior to certificates being issued.

It is not normally permissible to change the name on qualification and degree certificates once they have been issued. However, within the Gender Recognition Act, there are exceptions for trans people who hold a full GRC.

Given the potential implications of not having a degree certificate in the same name as other identification that employers must request, it would be good practice to extend these exceptions to trans people who do not hold a GRC.

This is highlighted by the following example in section 3.20 of the EHRC's technical guidance for further and higher education:

'A former student undergoing gender reassignment asks an employee in the relevant department of the university to provide an altered degree certificate in her new name. The employee tells her that he will not do this because he disagrees with gender reassignment. This is likely to amount to unlawful discrimination or harassment of the former student.'

EHRC, 2014

To reissue a certificate institutions will need to see evidence of name change, for example a statutory declaration of name change or deed poll and proof of identification, such as, a birth certificate, passport, identity card, or visa. It is not appropriate to ask for evidence that a person has changed their gender.

HEIs should also have processes in place to enable trans graduates to request a replacement degree certificate. It is within an institution's discretion whether to charge trans graduates for these. However, it is important to recognise that many trans people can face financial difficulties due to being trans or having had a trans history and HEIs should be prepared to be flexible where possible. If fees are charged they should not be more than what would normally be charged for replacement documents.

Criminal records checks

Agencies responsible for checking criminal records in the UK all have specific processes in place for trans people, including those with a full GRC who do not wish to disclose their former identity to their employer or placement provider. Employers and placement providers will provide a form that is to be completed by the person whose criminal record is being checked. Before an application is submitted by an employer or placement provider, trans people will need to contact the relevant organisation and contact who will guide them through the process, track the application and maintain confidentiality.

The Disclosure and barring service carries out checks in England and Wales and has a sensitive applications team:

T: 0151 676 1452 E: sensitive@dbs.gsi.gov.uk

Disclosure Scotland carries out the checks in Scotland.

Information on the process and contact details can be found at:

www.disclosurescotland.co.uk/publications/documents/ARTICLE-TRANSGENDER.pdf

Access NI carries out checks in Northern Ireland. Trans people are asked to contact Access NI's Operations Manager on telephone: 0300 200 7888.

www.nidirect.gov.uk/campaigns/accessni-criminal-record-checks

Confidentiality

For a fair proportion of trans people, it is likely that the desire for privacy is a result of concerns about what might happen if others were to find out about their trans identity or history. Confidentiality of information relating to a person's trans status is crucial and this can be highlighted in relevant policies and embedded through training. In specified circumstances, the Gender Recognition Act prohibits disclosure of the fact that someone has applied for a GRC, or disclosure of someone's gender before the acquisition of a GRC. Where this knowledge is obtained in an official capacity, for instance as part of a person's job, disclosure constitutes a criminal offence liable to a fine.

It may be necessary to disclose information about a person's trans status for insurance, pension and occupational requirements where they do not hold a GRC. However, this should only be done in consultation with the trans person. Disclosure without

a person's consent also constitutes a breach of their human right to privacy.

Records

All records should be held in line with the requirements of the Data Protection Act. When developing new and revising existing records systems, consider whether gender needs to be recorded and how the information will actually be used. If gender does need to be recorded, consider whether the options of 'other' and 'non-binary' can be included alongside male and female.

Ensuring that records are reflective of a person's name and gender is necessary to enable them to go about their daily university and college life. Changes will need to be made to personnel records, student records, library cards, payroll details and contact details for example. You can find a checklist in our online resources: www.ecu.ac.uk/guidance-resources/inclusive-environment/providing-support/trans-people

Records should only be changed following discussion with and agreement of the staff member or student concerned. The date on which record changes will be active from will also need to be agreed.

With the exception of pension and insurance records, notification of intent to transition is sufficient for a person's gender to be changed on their record. It is not appropriate to ask for evidence of medical transition before changing the gender field on a person's record and nor should an HEI or college wait until a person has a new birth certificate.

With the exception of qualification certificates (see page 27) for which evidence of formal name change is required, notification of name change is sufficient for records to be changed. However, as highlighted above, a change in name from that in which a person applied, enrolled or was recruited is likely to require changes to other organisations' records, for example UCAS, funders, banks and HMRC to avoid confusion.

ECU recommends that any requests to change names, either names by which a person is known by or their actual name, are made in writing or to a named member of staff. Staff and students can then be made aware of the implications of the

change for communications and interactions with other agencies and service providers.

If a person requests that reference to their previous gender and name is removed from all documents except those that cannot be changed, ECU considers that it is best practice for institutions and colleges to do this.

Trans people who have a full GRC can request that any reference to their previous gender and if applicable their previous name, is completely removed from their record. All papers and electronic records held and where the person's name and gender are mentioned the records must be amended or replaced. For example, a person's old birth certificate will need to be replaced with their new one; if the person has changed their name, their original offer letter will need to be replaced with an offer letter in their new name. Nothing should remain on the file that would disclose to a third person that a change has occurred.

HEIs and colleges use a range of different records management systems. Some are developed in-house and others are purchased from software providers and adapted to meet local contexts and requirements. Paper records are also still used. Electronic and paper records for staff and students are likely to be held at the department and institutional level as well as in offices responsible for admissions, finance, payroll, timetabling, accommodation, alumni and so forth. Given the number of different systems in place, we have provided a series of questions to identify what is possible within your HEI's or college's records management system.

Paper records

- = Where are paper records held within the institution?
- = Who is responsible for them?
- = Who has access to them?
- = What information is held in paper records that could reveal a person's trans status? For example, records with their old name and gender, details of absence for medical assistance, birth certificate, passport, visas, qualification certificates, documentation of name change and notes of meetings related to a person's transition.

- = Is the information stored confidentially?
- = How do you go about changing a person's name and gender on the record? Which other records may be related to it that also require changing?
- = Can different records have different names? For example, some students may not wish to reveal their trans status to their parents so records held in the finance department may need to be in a different name to records held by their department.
- = Where a staff member or student uses more than one name, has a fluid gender identity, or identifies as more than one gender, is it possible for this to be accommodated in paper-based record management systems? For example, could two related records be created with careful consideration given to any confusion this may cause. If it is not viable, are there alternative solutions?
- = Could confidential paper records be placed in a sealed envelope and attached to a new file with instructions such as 'Confidential: personnel manager only' or 'Confidential: head of student services only'?

Electronic records

- = Which electronic systems within your institution or college hold details of the staff member, student or applicant concerned?
- = Are the systems synchronised or do they all need to be changed?
- = Do all electronic records need to use the same name and gender? This is due to some trans people not wishing to be out within their family.
- = Students or staff who use more than one name, have a fluid gender identity, or who identify as more than one gender may require more than one name and gender to be on their records to go about their day-to-day life with ease. Is it possible for staff and students to have more than one record on the system? And if so, can they be linked to avoid duplication? If they cannot be linked and there is duplication does this matter?

- = Is data held on systems within a person's entry that could reveal their trans status? For example email correspondence, telephone call logs, electronic copies of documentation including qualification certificates, evidence of name change, passports and visas.
- = What level of confidentiality can be offered by the system? Is it possible to record a person's trans status confidentially? Can restrictions be applied to different sections of the record to ensure that only the personnel manager or head of student services can view confidential sections?
- = Who has access to the records?
- = Is it possible to add a nickname or 'known as' name? What are the implications of this? Will the known as name become the default name for all or some communications?
- = Will staff still be able to view the person's name as used for recruitment or registration even where a known as name is selected? For example, within email addresses?

Public records

- = What information is held on the website about the person? For example, biographies, photographs and lists of committee members.
- = What information is held in prospectuses or handbooks about the person?

Trans staff and students should be made aware of the level of confidentiality that can be provided by their institution's or college's records management systems as well as what is possible within the systems. The personnel manager or head of student services can allow staff to view confidential information only if they require it to perform their specific duties. Staff and students should be made aware of staff who can access their record and be asked to give explicit (signed) permission for them to do so.

The college or HEI should issue a letter to the individual confirming the changes to be made, the date from which changes will be active as well as the name of a person to contact if they experience any difficulties in the course of their day-to-day life.

In order for these changes to take place, it may be necessary to discuss with others in the organisation the fact that a person is transitioning. However, it is essential that the individual grants permission before their status is discussed with others.

Recruitment

Prospective staff may contact a college or HEI due to concern that they could be 'outed' by the recruitment process, for example, by referees, their academic biography, P45 or the requirement to provide official photographic identification. Where possible steps should be taken to ensure that a person is not outed, for example, by checking the names used in references before passing them to the person responsible for recruitment and ensuring that documentation showing a person's legal sex is viewed on a strictly need-to-know basis. Academic biographies may be more complicated and it may be appropriate to ask the applicant for suggestions.

It is good practice for institutions to provide information in recruitment packs on how they value equality and diversity and of any positive action measures they use. This can include a statement on trans equality and information on who trans applicants can contact. Equality training for recruitment panels can also cover trans issues.

While gender identity can be monitored during recruitment, monitoring forms should be separated from a person's application and a person should not be questioned about their trans experience during the interview. If an HEI or college chooses to use the positive action measures within the Equality Act, in the event that two candidates are of equal merit, human resources can be deferred to for advice as to whether either candidates is:

- 1 from a protected group and
- 2 that group is underrepresented in the workforce, or suffers a disadvantage connected to that protected characteristic

Trans job applicants and interviewees should be provided with an option 'prefer not to say' as they may not wish to disclose their trans status or history and consider it a private and irrelevant matter. A trans person can contact the HMRC to request that tax and pay information (eg P60 and P45 forms) reflects their new name. However, colleges and HEIs may wish to include a separate

option to equality monitoring to enable applicants to disclose their trans identity or history during recruitment with the purpose of ensuring they receive any support they may require, particularly with regards to documentation and references. All new staff can be informed about the HEI's or college's support for trans staff and who to contact.

The UK government requires all employers to check that a person has the **right to work in the UK** before they employ them. The Home Office provides a list of the types of identification that employers will need to make this check. This includes passports, national identity cards, visas as well as birth certificates accompanied by photographic identification. Employers are required to make copies of the documents which must be kept for the duration of employment and for two years after the person has left employment. They must also record the date on which they checked the documents. Staff who are offered jobs should only be required to present these documents to a member of human resources staff and applicants should be made aware of these requirements. Further information can be found at: www.gov.uk/check-job-applicant-right-to-work

References

References for current or former students or staff who are trans must make no reference to the person's trans status. References should use the appropriate pronoun and should not refer to a person's former names, or out them as trans. Failure to keep information confidential, unless the individual has given explicit written consent would be a breach of the Data Protection Act and, where a person has a GRC, the Gender Recognition Act. HEIs and colleges that receive a reference for someone who has transitioned, which refers to them by a previous name or gender, should treat that information as confidential.

Leave policies

The law recognises that trans people who have medical assistance to transition may require periods of time off work. Some trans people may need reduced hours or duties for a temporary period when they return to work following surgery. It may be appropriate to offer occupational health and counselling services.

Staff leave

Where a trans person needs to take time off work or study for medical assistance because of gender reassignment, the Equality Act and the Sex Discrimination (Gender Reassignment) Regulations (Northern Ireland) provide that they should not be treated any less favourably than if the absence was due to illness or injury. For example, they should not be paid less than if they were off sick. Also, a person must not be treated less favourably for being absent because of gender reassignment compared with how they would be treated if the absence was due to another cause, such as the need to care for a relative or attend a funeral. There is no minimum or maximum time stipulated for absence because of gender reassignment.

As leave due to illness or injury can be considered in relation to promotions and redundancy, ECU recommends that HEIs and colleges consider how absence due to gender reassignment is logged to ensure that trans staff are not adversely affected by absence management systems. Disability-related leave processes could be mirrored for staff whose absence is due to gender reassignment. As with the case of disability, confidentiality will need to be considered.

Student leave

While equality law does not make specific provision for student leave due to gender reassignment, it would be good practice to ensure that students are not treated any less favourably for being absent due to gender reassignment than if their absence was due to illness or injury. If the leave taken coincides with coursework deadlines, examinations or placements, consideration should be given to alternative forms of assessment, extensions to coursework deadlines and how the student can demonstrate the placement requirements within the timeframe available. If it is necessary for a student to retake a module or suspend their studies consideration will need to be given to the support that they will need to enable them to successfully complete their course within a reasonable timeframe. Given the financial impact on students they should not automatically be required to take a full year out of their course.

Suspending studies, sabbaticals and career breaks

Where a trans student or member of staff suspends their studies, goes on a sabbatical or takes a career break it would be considered good practice for the HEI or college to allow them to continue

to access any mentoring, counselling and their GP (which may be attached to their being a student or staff member). If they are taking a break because they are struggling they are typically left with very little help when they need it most. They have to go elsewhere (sometimes having to register with a new GP) in order to improve their wellbeing before returning to study or work. This may make a return harder, can be isolating and increase mental distress.

Pensions

State pension

From November 2018 the state pension age will be 65 for both men and women. Currently, the state pension age is 65 for men. For women born on or before 5 April 1950, state pension age is 60. For women born between 6 April 1950 and 5 November 1953, the age will increase gradually to 65 between now and 2018.

This means women employees born between 6 April 1950 and 5 November 1953 have a different state pension age to men. Where a person has a gender recognition certificate, they will generally receive their state pension at the age appropriate to their acquired gender. If a trans member of staff was born between 24 December 1919 and 3 April 1945 and had surgical intervention to transition prior to the Gender Recognition Act coming into force on 4 April 2005 there is guidance on the government website to determine if they may be eligible for equal treatment: www.gov.uk/government/publications/transsexual-people-equal-treatment-for-state-pension

It is good practice for the institution to agree with the individual the date of change for name, title and, if applicable, gender for pension purposes. The HMRC will use a trans person's preferred name and title in all communications. HMRC is informed if a full GRC is issued, either by the gender recognition panel or by the trans person themselves. This will lead to a change in national insurance records to reflect the person's acquired gender.

Occupational pension schemes

Occupational pension schemes are now required to have the same retirement age and benefits for men and women. However, before 17 May 1990, most pension schemes operated different retirement ages.

Private pension firms will require legal evidence of gender as well as name change, and staff should be asked to provide a new birth certificate and, if appropriate, a statutory declaration of name change.

Funding to support trans learners

Disabled students' allowances

ECU is aware of disabled students' allowances (DSA) being successfully applied for to provide mentoring support for trans students covering any kind of difficulty relating to gender identity while studying at university. In another case, a student was considering leaving their course due to anxiety around using public toilet facilities, DSAs were used to meet the costs of en-suite accommodation, which they would otherwise have been unable to afford.

ECU will be providing support and guidance to HEI's in light of government reforms to DSAs which will be implemented from 2016/17. See page 17 for information on how the disability provisions of the Equality Act apply to some trans students.

Extended learning support

The Scottish Funding Council plans to expand Extended learning support (ELS) to all college students who require support for effective learning, meaning students with a wider range of requirements will be eligible for funding. It is also likely to be renamed the Access and inclusion fund. Colleges will no longer be required to evidence an educational additional need, which means that colleges can use the funds to meet students' needs that impact on their wellbeing, such as the provision of mentoring. In addition, students will no longer have to complete a personal learning support plan in order to access support funding which has been found to be off-putting to some students.

Considerations for employment and placements

Occupational requirements

In the vast majority of cases, a person's sex is of no relevance to their job or programme of study. However, the Equality Act and the Sex Discrimination (Gender Reassignment) Regulations (Northern Ireland) recognise that, in some cases, being a particular sex can be an occupational requirement.

A trans person who has a GRC must be treated in all circumstances according to the sex as stated on their new birth certificate. Colleges and HEIs should ask to see birth certificates of applicants where requirements apply, they should not ask whether a person has a GRC although this may be volunteered by a person who does have one. Where a trans person does not have a new birth certificate, it is good practice for colleges and HEIs to assume that a trans person is eligible for the job or placement to which they are applying/allocated, and seek advice from expert organisations in the rare circumstances that issues arise.

Sex-related occupational requirements may apply to student placements in health and social care, counselling and youth work. As an employer, a college or HEI may have sex occupational requirements for certain posts in student services. Equality law makes clear that an employer must act reasonably in claiming an occupational requirement, for example, by considering whether tasks could be carried out by someone else. The occupational requirement must be identified at the beginning of the recruitment and selection process, and be stated in the application pack.

Placement providers should be asked if they have occupational requirements and where they do, these should be clearly communicated to all students. If a student does not have a GRC and new birth certificate and is on a course that involves placements where occupational requirements apply, it is essential that a meeting is held with the student and if the student wishes, a representative at the earliest opportunity. The aim of the meeting should be to establish whether the student is willing for the HEI to inform placement providers with occupational requirements of their trans status and to identify the most suitable placement with the student.

There is no occupational requirement whereby an employer can specify that a post must be performed by a trans person. There is however an occupational requirement that a specific post may not be performed by a trans person. This may apply to certain positions in religious organisations, to certain narrow fields within the military and in specialised services such as rape crisis support.

Insurance

Institutions registering staff for corporate insurance and benefits policies need to check if the underwriters require information on employees' trans status. This may also apply to students on placement.

Not all insurers require such information and it would be advisable to use one that does not. Some insurers automatically invalidate a policy if the trans status of a person without a GRC is not disclosed. If the institution is unaware of the trans status of its staff, the obligation to disclose passes to individual staff members, who could also be held liable in the event of an accident for which no valid insurance cover exists.

Student placement providers should be asked if they require information about a students' trans status for insurance purposes. If so, all students should be informed of this prior to placement allocation. HEIs and colleges can then support trans students in identifying a suitable placement and in deciding whether disclosure of information is necessary.

Field trips, placements and study abroad

In some countries or parts of countries trans people may experience societal hostility. Consideration should be given to this in planning for field trips, for example, if the student or staff member were hospitalised or searched at the airport. Where students are expected to undertake placements or study abroad consideration should be given to the suitability of the proposed country for trans students and any staff who support them in country. If a student is on a course focusing on a particular country and either the law changes in that country or there is evidence of a negative shift in societal attitudes, the student may need to be supported in finding an alternative placement in another country. In addition a staff member or student may not have the necessary documentation in their self-identified gender to travel. Trans staff and students should be considered, and if they would like to be, involved, in risk assessments related to field trips, placements and study abroad.

Dress codes

It is good practice for dress codes to be gender-neutral in their description of what types of dress are appropriate. This allows for flexibility in dress and does not reinforce binary gender choice or gender stereotypes. Dress codes that specify different requirements for men and women may create practical difficulties for some trans people.

3 Culture: building a trans inclusive environment

Some trans people wish to keep their trans experience private. Consequently, a trans member of staff may consider leaving their present employment, transition, and then find employment elsewhere. A trans student may consider withdrawing from their course. Trans applicants may not be able to demonstrate the full context around their learning unless they provide information about their trans status in their application and yet they are likely to be afraid to do so. Like all alumni, trans graduates could continue to contribute to their former college or HEI and yet they may prefer to cut ties.

As environments become more welcoming and supportive and swift action is taken to deal with any negative situations then colleges and HEIs are likely to find that more people are open about their trans identity or history and choose to remain in employment and on their course while they transition.

Discrimination and harassment

Discrimination and harassment are unlawful and should not be tolerated. Policies should protect the rights of trans people to dignity at work and in their studies and in doing so will help to create a trans friendly and inclusive environment.

Examples of unlawful direct discrimination include:

- = refusing to promote a member of staff because they are trans
- = refusing to support a member of staff or a student who is trans
- = deliberately excluding a trans person from any work or work-related activity on the grounds of their gender identity
- = dismissal of a trans person for reasons connected to their gender identity
- = verbally or physically threatening a trans person
- = spreading malicious gossip about that person
- = refusing to associate with or ignoring someone because they are a trans person
- = refusing to address the person using their correct pronoun or name
- = sexual harassment of a trans person

- = revealing the trans status of a person to others, by disclosing information to individuals or groups – in other words, 'outing' someone
- = not respecting a person's gender identity because the college or HEI thinks the individual is not sufficiently 'convincing' in their gender role
- = indefinitely refusing to allow a trans person to use single-sex facilities appropriate to their gender or forcing them to use gender-neutral facilities
- = treating a trans person less favourably than others in regard to sickness or other absences
- = refusing to acknowledge the rights of a trans person and failing to acknowledge that they are living in their self-identified gender

Steps can be taken to prevent discrimination and harassment

- = Ensure gender identity is covered in policies aimed at preventing harassment.
- = Train all staff and managers on relevant policies and their responsibilities under them.
- = Make harassment a disciplinary offence.
- = Monitor the effectiveness of policies aimed at tackling harassment.
- = Develop clear procedures for investigating complaints.
- = Train staff involved in investigating complaints.
- = Ensure subcontractors are aware of the institution's policies to promote gender equality and their obligations under them.
- = Work in partnership with the local police to ensure hate crimes are reported.

Trans respect guidelines for staff and students

The following informal guidelines on how to treat trans people may be helpful for a trans person's colleagues and fellow students.

- = Think of the person as being the gender that they self-identify as.
- = Use the name and pronoun that the person asks you to. If you aren't sure what the right pronoun is, politely ask them what name and pronoun they use. 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.
- = 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.
- = If you hear, or see staff members or students using transphobic language or behaviour challenge it and/or bring it quickly to the attention of someone in a position of authority.
- = 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 about medical transition, 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.

Language and names

Inappropriate language

All language shifts and changes and is highly individual. A person's individual language should always be respected when applying a term to them. It is also important to be mindful of trends in language as a staff member or student may associate with a term perceived by some, even members of the same community, to be

inappropriate. For example some trans people are reclaiming the term 'tranny'. The term 'queer' was previously widely considered offensive but now has been reclaimed by some parts of the LGBT community.

It is not usually appropriate to use the terms 'sex change' or 'pre-/post-operative'. These terms are intrusive and imply that all trans people must undergo some form of surgery, which is not the case.

Pronouns

A person should be addressed and referred to using the pronouns which make them feel comfortable. If you are not sure what the correct pronoun is, politely ask the person what they prefer. This could be he, she or some trans people, particularly those with non-binary identities, may prefer a gender-neutral pronoun, such as they or per.

It is never appropriate to put quotation marks around a trans person's chosen pronoun.

Names

Once a trans person has made known their chosen name, this should be used in all circumstances, rather than the name they used during application, registration, recruitment or on commencement of post. See pages 27 and 28 for exceptions around qualification and degree certificates.

Some trans people may use more than one name, for example if they have a fluid gender identity or if they are unable to be fully out. It is advisable to discuss with the person how they would like their chosen names to be used.

It is never appropriate to put quotation marks around a trans person's chosen name.

Titles

Recently a number of HEIs including Goldsmiths and the Central School of Speech and Drama have introduced with success the title Mx for staff and students who wish to opt for a gender-neutral title. In October 2011 the UK Deed Poll Service added Mx as an option and it is being adopted by other organisations including local councils and government agencies. For example, you can use the title Mx on driving licences.

As the Higher Education Statistics Agency (HESA) and the Scottish Funding Council do not collect information on peoples' titles, using Mx will not affect data returns. Mx will also be inclusive for EU and international students who have a gender marker in their passport that is not male or female.

Inclusive estates and facilities

Third parties

An institution is liable for discriminatory actions taken by anyone acting on their behalf, whether or not it was done with their knowledge, unless they can show that they had taken all reasonable steps to prevent such actions. This means that colleges and HEIs need to ensure their staff, contractors and other service providers (such as cleaning contractors) are aware of their obligations under the Equality Act or the Sex Discrimination (Gender Reassignment) Regulations (Northern Ireland) Order and the institution's policies.

Accommodation

Where accommodation is provided for students, every effort should be made to be flexible and treat issues raised by trans students with sensitivity and consideration. Some trans students may not feel comfortable using communal toilets and washing facilities and it may be appropriate to allocate them en-suite accommodation.

To ensure that the correct accommodation is allocated from the start, information requested from students when they apply for accommodation can include a question on gender identity. In addition, details of a named staff contact can be provided. This will be of particular help to trans people who do not wish to or cannot be (due to parental/guardian involvement) open about their gender identity in their application – enabling students to discuss their gender identity in relation to accommodation allocation in confidence.

Assumptions should not be made about the type of accommodation a trans student would like to be allocated – they may prefer single-sex or mixed-sex accommodation in line with their gender identity. It is important to consult the student on where they will feel most comfortable.

Students may decide to transition at any point during their course. Consequently, accommodation contracts should be flexible to allow transitioning students to enter or leave single-sex accommodation. In addition, consideration can be given to the provision of gender-neutral facilities.

Where accommodation is provided by a private contractor, the institution should ensure contractors have suitable processes in place to support trans students and encourage contractors to consider the provision of gender-neutral facilities. For further information on ensuring equality when working with contractors see ECU's 2012 guidance *Equality through procurement in further and higher education*: www.ecu.ac.uk/publications/equality-through-procurement-fe-and-he

Gender-neutral and single-sex toilets and changing facilities

Some HEIs, colleges and students' unions or associations have introduced gender-neutral toilets, washing and changing facilities. Various terms and signs are used to describe gender-neutral facilities including 'for everyone' and 'unisex' or simply a description of the facility, for example 'toilet' or 'changing room'. Examples of terms and signage can be found on the internet.

The installation of gender-neutral toilets, washing and changing facilities is beneficial to trans people, particularly non-binary individuals. From an equalities perspective, gender-neutral facilities are more inclusive to other members of staff and students, including parents with young children. They can be provided alongside single-sex facilities and should be considered in estate planning. While accessible toilets and changing facilities tend to be gender-neutral it is not necessarily appropriate to allow access to all staff and students as it may reduce access for disabled staff and students.

Trans people should be allowed to use single-sex toilets and changing facilities appropriate to their self-identified gender. It is not acceptable to restrict a trans person to using disabled toilets or gender-neutral facilities. If a person needs to change the facilities they use because they transition it may be helpful to explain the situation to work colleagues or other students who use the facilities; however, this should only be done following full consultation with the trans person, and if the person concerned wants this conversation to take place. For a range of equality-

related reasons, it would be considered good practice for an institution to consider providing private cubicles within existing single-sex changing facilities.

Health centres

Health centres and GP practices to which colleges and HEIs direct their staff and students may not be familiar with trans issues. HEIs and colleges may want to speak to health centres and GP practices about their approach to trans issues and can bring to their attention the gender variance elearning module developed by the Royal College of GPs:

elearning.rcgp.org.uk/gendervariance

Counselling

Gender identity clinics do not usually provide counselling to support a person's transition and many trans people will not use gender identity clinics. As the barriers trans people can experience may negatively impact on their mental health, trans staff and students may want to access counselling services offered by their HEI or college. HEIs and colleges can also make trans staff and students aware of the service. Although counsellors may not have specialist expertise, they should be able to provide support and HEIs and colleges may want to share a copy of this guidance with their counselling service. Local trans support groups and organisations may be able to recommend counsellors with specialist expertise.

Support groups

Support groups can help improve the experiences and in turn retention of both staff and students. In addition to trans people attending LGBT+ support groups, trans students may want to form or join trans groups to address some of the additional aspects and needs. In response to demand, some institutions have established support groups specifically for trans students. Gender identity issues and support for trans staff and students may alternatively be covered by a gender equality group.

Other ways in which institutions can offer additional support to trans staff and students include:

- setting up a scheme for visiting trans mentors to offer support to both trans and non-trans students and staff

- = setting up an inter-institution buddying system to allow trans people in higher and college education to connect with each other
- = ensuring you are familiar with local and national trans organisations that trans staff and students can be put in touch with

Sport

Sport is an area which has relatively recently started to consider the implications of trans issues and the approach of sport regulators and sporting bodies is changing. For example, in 2016 the International Olympic Committee allowed trans people to compete in the Olympics for the first time without their having to have had surgery. Restrictions were in place for trans women that related to their testosterone levels only. There were no restrictions in place for trans men.

The report of the House of Commons women and equalities committee highlights that interpretation of legislation by sporting bodies has resulted in trans people being inappropriately excluded from playing sport in their affirmed gender. The Gender Recognition Act recognises that, in certain circumstances, it may be appropriate to restrict trans people from participating in competitive sports in their affirmed gender. This is to ensure fair competition and the safety of other competitors as well as the trans person. The criteria within the act applies to trans competitors only, they do not apply to trans referees, coaches or club employees.

HEIs, colleges and student's unions need to ensure that trans students are not excluded from participating in non-competitive sporting activities and events. On the basis of the 2016 Olympics it would be best practice to ensure that trans men are not excluded from competitive sport. If an HEI or students' union is unsure whether it is appropriate to allow a trans woman to compete in a competitive sporting event, ECU recommends that the appropriate sports governing body is consulted. Sports governing bodies should have a policy for competition that covers trans people (Sports Council Equality Group, 2013). For higher education competitive sports, the British Universities and Colleges Sport, www.bucs.org.uk, may also be able to assist.

Consideration should be given as to whether it is strictly necessary to exclude a trans person on the basis of fair competition or safety, and what can be done to mitigate any negative effect of excluding a trans person. Given that many sporting bodies are at the outset of exploring the implications of trans issues, if HEIs, colleges or student clubs are unhappy with the response they receive it would not be unreasonable for them to question it.

4 Supporting individuals: responsibilities when supporting trans applicants, staff, students and former students

Individuals will have different support requirements depending on whether they are an applicant, student, staff member or former student.

When developing policy and practice and when considering the support that your HEI or college can provide it is important to be mindful of the differing requirements of individuals. These requirements will not only depend on whether they intend to transition, are transitioning or have transitioned, they will also be influenced by the stage a person is at within the applicant, student or staff experience.

Applicants for courses

Trans people may not want to disclose their trans status during the application process for a programme of study. However their application may not be able to demonstrate the full context around their learning without this information.

Trans applicants may:

- = have documentation in different names
- = be unable to change their name if they are under the age of 16 and may not have parental support
- = be experiencing gender dysphoria and have been experiencing it throughout their education
- = have been transitioning between child and adult gender identity clinic services at the time of key assessments and when making applications for future study
- = have fewer extra-curricular experiences to draw upon
- = be under the care of a gender identity clinic

In light of this ECU recommends that HEIs and colleges take the following steps.

- = Ensure marketing materials highlight how applications from trans people will be managed and the support and facilities available to trans students.
- = Consider providing a dedicated contact for trans applicants whose role it is to provide advice and guidance throughout the application and admissions process. Trans applicants can be given the option of their trans experience being disclosed to specific individual staff on a strictly need-to-know basis. Written permission should be sought for this.

- = Consider whether application forms can include an option to disclose trans status, and also whether application forms can include a field where applicants let you know what pronouns they use. Information on the support that will be provided during the application process can be provided alongside this.
- = Include an option for nicknames or names known by on the application form.
- = Ensure an applicant's trans experience is given the same consideration as other mitigating circumstances and contextual data. If information that is relevant to their application and related to their gender identity was omitted from their application form, consider giving trans applicants the option of providing it retrospectively.
- = Take steps to ensure that trans applicants are not inadvertently outed during interviews or any other element of the applications process. For instance, can the HEI or college ensure that the documentation received by anyone conducting interviews contains the person's preferred name, gender and pronouns? If enrolment occurs in open settings consider how confidentiality can be managed for trans people as they can be outed by questions about their documentation, or if documents are left visible to others in the queue.
- = Establish if the applicant is open to the people they currently live with and their family about their trans experience as this may have implications when handling their application and if successful, their admission.
- = Ensure staff responsible for selection and interviewing have received equality training that covers gender identity issues. It may also be useful to provide unconscious bias training.
- = Provide feedback to trans applicants if their application is unsuccessful.

For further information see ECU's and Supporting Professionalism in Admissions guidance *Equitable admissions for underrepresented groups*: www.ecu.ac.uk/publications/equitable-admissions-for-underrepresented-groups

An overview of transition

The chart on page 55 is intended to only be indicative of some of the ways people may transition – it does not cover everything, and equally not all trans people will want to or be able to take all of the steps mentioned.

Each individual's situation will vary depending on a range of factors, including whether or not a person opts for medical procedures, and whether they are receiving medical assistance privately or on the NHS.

In addition, many other trans people will choose to socially transition but not undergo any medical treatment, or will alter their gender expression without undertaking any other steps of transition.

The most important consideration is ensuring you support all staff and students, whether trans or not, to express their gender in the way they are most comfortable.

Social transition

A person realises that their gender identity is not congruent with the sex they were assigned at birth.



The person may tell their friends, family and HEI or college.



The person may change their gender expression part-time or full-time, for example, their external characteristics and behaviours such as clothing, hairstyle, make-up, mannerisms, speech patterns and social interactions.



The person may change their name and pronouns and identity documents.



At the person's request, organisations that hold records (eg their HEI or college, bank, funder, utility company) change their records to reflect their new name (if appropriate) and gender.



At any point during their transition, a trans person may contact their HEI, college or qualifications agency to request that their degree or qualifications certificates are issued in their new name. Formal proof of name change in the form of a deed poll or statutory declaration of name change will be required for this.

Medical transition

A person realises that their gender identity is not congruent with the sex they were assigned at birth.



The person seeks referral to a gender identity clinic or if in Scotland may be able to self-refer.



The person is placed on a waiting list for a gender identity clinic.



When seen in a gender identity clinic the person may be diagnosed with gender dysphoria.



After at least three months, the person may begin hormone therapy. In view of the current delays in accessing treatment, a person may also be self-medicating.



After at least 12 months, the person may be referred for surgery. Again, waiting times can be an issue.

Legal transition

A person realises that their gender identity is not congruent with the sex they were assigned at birth.



To secure legal recognition of transition the person seeks a diagnosis of gender dysphoria.



After two years of living in their self-identified gender, whether or not they have undergone surgery, the person is able to apply for a gender recognition certificate (GRC). **The majority of trans people who transition do not apply for a GRC as to many it is irrelevant to their lives or inaccessible for various reasons.**



If the person meets the requirements of the gender recognition panel a GRC is awarded and if the person was born in the UK a new birth certificate is also issued.



The person is now legally recognised in their self-identified gender. Legally any documents and references that have not already been changed must now be changed, for example identification held on file to prove right to work in the UK.



If the person is a staff member who is a member of the HEI or college pension scheme, they must send their new birth certificate to the appropriate person to ensure their gender is changed on pension records.

Support through transition

Guidelines on supporting trans people should encourage both employees and students who wish to transition to inform their HEI or college. This will enable the college or HEI to implement support and make changes. They should also make trans students and staff who have transitioned aware of ongoing support that may be available to them.

Beginning the process

Trans staff and students may want to put in writing their intention to transition. This may help the trans person and their HEI or college ensure that the request is treated formally and taken forward appropriately. A meeting can then be organised with the person to offer reassurances that the institution will support them in their transition. The trans member of staff, or student, may wish to be accompanied at the meeting by their trade union or students' union representative, or by a friend.

At the meeting, the person should be informed about the support available within the institution. It may also be appropriate and helpful to discuss the following with the trans staff member or student at this or future meetings.

- = How and when key people will be informed (eg line managers, tutors, heads of department).
- = If appropriate, possible timeframes that the staff member or student is aware of in relation to their transition.
- = Ways to minimise any disruption to the student's programme of study (eg, distance learning, intensive learning before or after any medical procedures, adjustments to deadlines and assessments, and online learning). Particular attention will need to be given to this for students on programmes of study that require them to undertake course placements, or to study at a particular rate to qualify for funding or meet course requirements.
- = Whether the member of staff would like to stay in their current position or is considering redeployment.
- = Whether a student is considering deferring or changing their mode or place of study (eg part-time or distance learning).
- = Whether the member of staff or student wishes to inform line managers, colleagues and/or fellow students in person, or would prefer this to be done for them.

- = What amendments will be required to records and systems.
- = Whether training or briefing of colleagues, staff within a student's department, fellow students or service users will be necessary, at what point, and who will carry this out.

Supporting transition

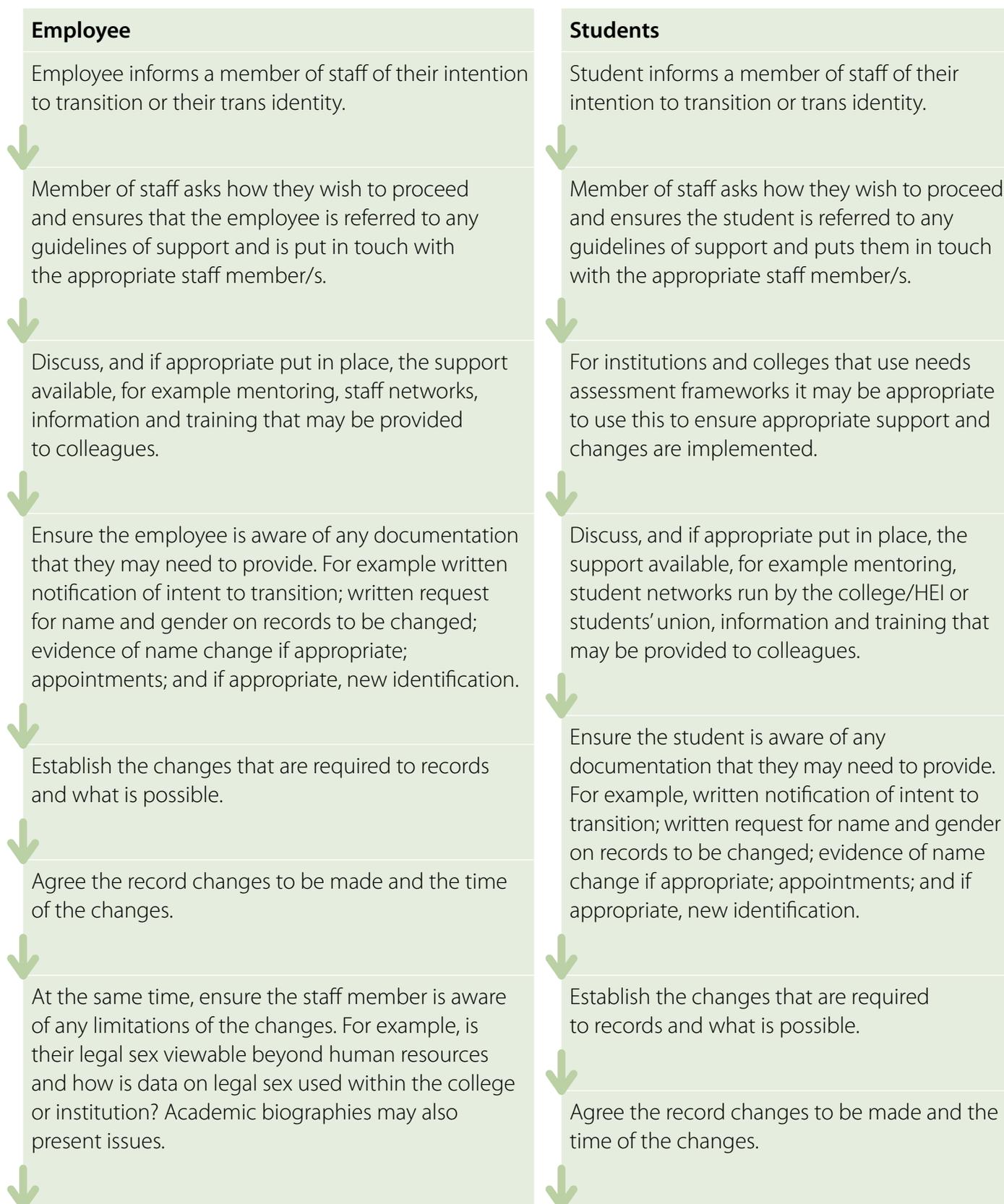
Transition is the point at which a trans person starts to live publicly in accordance with their gender identity. However, sometimes medical assistance may start before this in preparation for transition. Before a person starts to transition, it is important that the institution plans with the staff member or student what will happen. At the point that a person starts to transition, relevant managers, departments and divisions will need to ensure the required changes are in place.

- = Staff lists, student lists, class lists, organisational charts, databases and so forth should be updated and if appropriate recirculated.
- = A trans staff member should receive new identification and, if relevant, a new door sign. A trans student should receive a new identification card, library card, students' union card, etc. See our online resources for a checklist:
www.ecu.ac.uk/guidance-resources/inclusive-environment/providing-support/trans-people
- = Formal and informal social groups, should be considered. Work and study will return to normal quickly, but other students and staff may be interested and curious about the person's new identity.
- = If a student living in accommodation that is owned or managed by the institution requests to be relocated to more suitable accommodation, this should occur on an agreed date during the transition process.
- = The students' union or association should ensure all records of the student are changed and that membership of single-sex sports clubs and societies is handled appropriately.

Some trans people may not permanently express their self-identified gender until they know that they will have the support of their family, friends and colleagues or hormone therapy starts to alter their body. It can take several years to transition, and during this time the trans person may experience extensive physical changes. This means it may be necessary to update photographic identification throughout the transition period;

in some cases the person may require college and HEI-related identification in their former as well as their new gender expression. Some trans people have fluid gender identities, and their gender expression may be different at different times. All staff and students should be supported to express their gender in whichever way is most comfortable for them, and individual solutions to issues arising around areas such as identification should be discussed with the person.

In rare cases, there is the possibility of media intrusion, particularly if the person is working in a high-profile role. If the institution or the trans person anticipates that this may happen, it is helpful to have prepared a media strategy. Any such strategy should be developed with the individual concerned.



Employee continued

Agree who needs to be made aware of changes such as to names and pronouns, records, and who needs to be informed and how. This may include their line manager, team, head of department, students and external agencies such as pension and insurance providers.



At the same time, ensure the employee is aware of any limitations of the changes. For example, is the name in which they registered viewable to staff accessing their record even though they use the known as or nickname option within records?



Review changes periodically to ensure they are appropriate. A review may be triggered by changes in technology (eg capabilities within records systems), services and facilities available or further changes in the employee's gender expression.



When an employee leaves ensure that references are provided in their preferred name and should they request, on presentation of a new birth certificate, their former name and gender will need to be removed from records.

Students continued

At the same time, ensure the student is aware of any limitations of the changes. For example, is the name in which they registered viewable to staff accessing their record even though they use the known as or nickname option within records?



Agree who needs to be made aware of the changes such as to names and pronouns, records, and who needs to be informed and how. This may include their tutor, head of department, fellow students and external providers (eg placement providers, funders).



Review changes periodically to ensure they are appropriate. A review may be triggered by changes in technology (eg capabilities within records systems), services and facilities available or further changes in the student's gender expression.

Managing the reactions of colleagues and fellow students

When people transition or come out as trans or non-binary, the process itself may present challenges for other staff and students who have fixed notions of gender. A member of staff or a student who transitions or comes out as trans may face a broad range of challenges in their work or learning environment. Institutions that are supporting trans staff and students and managing the reactions of their colleagues or fellow students may initially have no idea how to respond to these challenges.

The trans person may want to tell their colleagues or fellow students that they intend to transition or about their trans status; some trans people will not want to. In agreement with the person, it may be useful to arrange a meeting.

- = The content of any meeting and who attends should be discussed and agreed with the trans person in advance. It may be appropriate to involve an external trans organisation.
- = If agreed and practical, invitations can be sent to anyone the person works with or interacts with frequently at the institution, in student accommodation or on programme placement. It is best not to discuss transition or trans status via email, although a letter (and ECU guidance materials) could be circulated at the meeting.
- = The individual should be free to choose whether they make an announcement themselves, or whether it is made for them by a chosen representative.
- = There should be an opportunity for other members of staff or students to ask questions, either of the person hosting the meeting or, if they are comfortable, the person concerned. People should be made aware that what is appropriate to ask a professional trainer or educator is not always what is appropriate to ask an individual trans person. It may be helpful to circulate some basic ground rules on showing respect for trans people; some ideas are given on page 45.

It is important that a senior member of staff within the student's or staff member's department or faculty, and in the case of students, their residence, is (and is seen to be) supportive.

- = It would be good practice for the senior member of staff to make it clear that trans people, including people who transition while at a HEI or college, have the full support of the institution, and that the institution supports all people to express their gender however they feel most comfortable.
- = The senior member of staff should also explain and reiterate the institution or college's commitment to equality, and its policy on bullying and harassment.
- = The senior member of staff should emphasise that the person be addressed by their preferred name and the appropriate pronoun.

Training for colleagues and fellow students may be helpful. This should be conducted in such a way as to ensure participants are able to raise issues and concerns of their own; it is of paramount importance that they know what is expected of them.

When developing training programmes it is good practice to involve any trans staff or students in the planning and design phases, should they wish to be involved. Keep in mind that some trans staff or students may choose not to be publicly identified; confidentiality is vital until they indicate that they are comfortable being 'out'.

Former students

Former students may contact the college or HEI requesting that changes are made to their records. This is likely to be because they have a GRC and under the Gender Recognition Act they are entitled to request that their former name and gender are removed from all records. Where such a request is made their former name and gender should be removed from all records and replaced with their new one. Once changes to records have been made these should be confirmed in writing.

Trans alumni without a GRC may also make such a request and it would be good practice to fulfil it but as with current students, identification documents as provided during enrolment may need to be kept on file. These can be stored confidentially in line with the policy for existing students.

Former students may also request new qualification and degree certificates. See pages 27 and 28.

5 Data: understanding your trans population

Collecting information on gender, gender identity and sex

ECU encourages colleges and universities, where possible, to collect equality monitoring data on all protected characteristics and analyse this information at key stages of the education cycle. This is to:

- = help facilitate a deeper understanding of staff and students and the potential barriers they face
- = establish an evidence base for activities, policies and practice
- = meet the requirements of equalities legislation
- = analyse patterns emerging in relation to discipline and grievance issues
- = support staff and students who want to be 'out'
- = avoid giving the impression that some equality issues are more important than others

The decision to monitor gender identity should be taken in consultation with trans staff and student groups as well as trade unions and students' unions or associations. If most trans people are opposed to monitoring, this may suggest that more work needs to be done to ensure equality policies are implemented and effective. It should also be noted that following transition some people will no longer view themselves as trans and may not support monitoring questions on gender identity as they view transition as a deeply personal issue.

If following consultation an institution does decide to monitor gender identity it is recommended that the following steps are taken.

- = Ensure the institution's policies to promote gender equality expressly cover trans staff and students, making it clear that monitoring is taking place within a wider framework.
- = Be clear about why the information is being collected and how it will be used – only collect information that will be used.
- = Be clear that all monitoring questions relating to gender identity are optional.
- = Ensure the information remains anonymous.

- = Ensure that data is only published at the institutional level. Publishing at the department or divisional level could result in people being inadvertently outed.

Low rates of return are quite likely when monitoring is first introduced. ECU's 2009 research showed that only a third of trans staff and 40 per cent of trans students would be willing to disclose their trans status to their HEI (ECU, 2009). There may also be some 'spoiled' returns or returns with abusive comments on them. If this does not improve over time, the HEI or college might want to review its policies to promote gender diversity and their implementation. But if, in time, the institution can demonstrate that it is really committed to building a trans-friendly workplace and learning environment, data should improve.

Designing monitoring forms and questionnaires

Always make the following clear on forms requesting personal information from staff and students:

- = why the information is being collected
- = if the information is being collected anonymously
- = who will see the responses
- = how it will be used
- = how it will be stored
- = what support is available to staff or students who wish to disclose particular circumstances

People are more likely to respond positively to questions on gender identity if the questions asked use language that they are comfortable with. Questions about language could form part of the preparatory consultation with trans staff and student groups.

Constructing questions

Asking questions about gender is more inclusive than asking questions about sex. Trans people can be outed if they are asked about their sex followed by a question about their gender identity or trans history.

Questions on gender should allow for options beyond the binary of man and woman, for example:

What is your gender or what gender do you identify with?

- = Man
- = Woman
- = Other (please specify)
- = Prefer not to say

Questions about gender identity should be free-standing. They should not form part of questions on sexual orientation. Gender identity is not about who a person is attracted to.

Descriptive questions on gender identity may be the most appropriate, for example:

Does your gender identity match your sex as registered at birth?

- = Yes/No/Prefer not to say

Do you identify as trans or do you have a trans history?

- = Yes/No/Prefer not to say

Do you live and work/study in a gender role different from your sex as registered at birth?

- = Yes/No/Prefer not to say

Have you made changes, or do you intend to, to bring your gender role and expression in line with your gender identity, and away from the sex you were assigned at birth (this could include change of name, pronouns, title, the way you dress)?

- = Yes/No/Prefer not to say

Do you feel able to discuss your trans identity/history with colleagues at work?

- = Yes/No/With some people, but not all/Prefer not to say

Processing monitoring data

To help address concerns about confidentiality and increase the response rate, electronic monitoring surveys should be owned by one central contact such as the head of human resources, not local human resources leads. If forms are used they should be returned to the central contact. Sometimes monitoring can be conducted through a neutral organisation under a guarantee of anonymity.

The Data Protection Act's purpose limitation rules do not apply to anonymised data. If the information is not anonymous, the act regards information on gender identity as 'sensitive personal data', which can be stored only if the individual gives their consent. Provided that respondents are reminded of their right to refuse to answer questions, a box can be included on the form for respondents to tick if they grant their permission for data to be stored.

Monitoring data should be stored confidentially. A good check on confidentiality is to map the flow of information from the person who supplies the data to the final reporting stage: the number of people who will work directly on the data, and the number of other people who will have access to the data. There should be as few steps in this chain as possible.

When reporting monitoring data, institutions should report data on gender identity at the institutional level only. Trans communities are small and sometimes individuals can be identified by very little information. For example data segmented by specific courses, departments, grades or job titles could easily out a trans person. For further information see ECU's resources on working with data: www.ecu.ac.uk/guidance-resources/using-data-and-evidence/working-with-data

Requirements to collect equality data

As highlighted above, monitoring for gender is more inclusive than monitoring for sex as trans people can be outed if they are asked about their sex and then questioned on their gender identity or trans history.

However, institutions will still need to collect data on sex due to the requirements of equality legislation and data collection agencies to publish and provide this data. The question could be phrased to be trans friendly and should still allow for options beyond male and female (see page 66).

Equality legislation

Equality legislation in Scotland and Wales requires colleges and HEIs to collect, publish and use employment data on all the protected characteristics of their staff, including sex and gender reassignment. The duty to set equality outcomes in Scotland and objectives in England and Wales also requires colleges and HEIs to use evidence in relation to sex and gender reassignment necessitating consideration of gender reassignment using quantitative or qualitative evidence. In Northern Ireland, institutions are required to monitor sex and it would be good practice for them to monitor gender reassignment.

HESA

HESA requires HEIs to return data within the category SEXID on the protected characteristic of sex. Students are able to respond that they are male, female or other. This recognises that some students will not identify as male or female. For staff, the HESA return only allows a legal sex definition of male and female.

Since 2012/13 HESA has allowed HEIs to voluntarily return data on the protected characteristic of gender reassignment. In 2013/14, 56 per cent of HEIs (91) returned staff data on gender identity and 53.8 per cent (86) returned student data on gender identity.

HESA reviews its equality monitoring questions periodically.

Colleges in Scotland

The Scottish Funding Council requires colleges to provide data on the protected characteristic of sex. It does not require colleges to provide data on the protected characteristic of gender reassignment. However, in response to the PSED in Scotland, some colleges have started to or plan to collect this data for staff.

Staff records

The legal sex of staff will need to be known for pension purposes. It may also need to be known in rare circumstances where occupational requirements apply or if required by an insurer. Trans staff can be asked to notify the contact for trans staff or head of human resources of their legal sex separately to monitoring and data collection. Again, feasibility will be dependent on records systems.

Student records

It should not be necessary for a college or HEI to know a student's legal sex unless occupational requirements exist on their course or if it is required by an insurer. If this is the case all students who may be affected by the requirements should be notified and advised to inform the contact for trans students or head of student services.

6 Resources and tools

Find out more

ECU has developed a range of tools and resources to help your institution support trans staff and students.

This includes template policies, advice for managers and tutors and case studies.

Visit www.ecu.ac.uk/guidance-resources/inclusive-environment/providing-support/trans-people

- = **The Beaumont Society** is the largest support group in the UK. Through its work it promotes better understanding of the conditions of transgender, transvestism and gender dysphoria: www.beaumontsociety.org.uk
- = **Depend** is an organisation that offers free, confidential and non-judgmental advice, information and support to all family members, partners, spouses and friends of trans people: www.depend.org.uk
- = **Equality and Human Rights Commission** is the statutory body responsible for protecting, enforcing and promoting equality across nine protected characteristics – age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, and sexual orientation: www.equalityhumanrights.com
- = **The Forum: for sexual orientation and gender identity equality in post-school education** promotes equality and good practice in employment and the provision of post-school education, with a specific focus on sexual orientation and gender identity, or transgender, equality issues: <https://sgforum.org.uk/>
- = **Gender Identity Research and Education Society** initiates, promotes and supports research, particularly to address the needs of people who have a strong and ongoing desire to live and be accepted in the gender in which they identify, although different from that assigned at birth: www.gires.org.uk
- = **Gendered Intelligence** is an organisation which provides support, training and resources for all those who work with and support trans people as employees, colleagues, students, pupils or clients; youth groups, activities and support for young trans people up to the age of 25; and works extensively in schools, colleges and universities with both staff and students offering mentoring, workshops and training: www.genderedintelligence.co.uk

- = **The Gender Trust** is recognised as an authoritative centre for professional people who encounter gender identity-related issues in the course of their work. In particular, this group includes employers, human resources officers, health workers and information services. National helpline: 0845 231 0505: www.gendertrust.org.uk
- = **Mermaids UK** provides support and information for children and teenagers who are trying to cope with gender identity issues, and for their families and carers: www.mermaidsuk.org.uk
- = **National LGBT Hate Crime Partnership** brings together 35 LGBT organisations from across England, Wales and Scotland and is led by the LGBT consortium on behalf of the EHRC. It aims to increase the reporting of homophobic, biphobic and transphobic hate crimes and incidents and improve the support available to those targeted: www.lgbthatecrime.org.uk
- = **Nonbinary inclusion project** is a grassroots organisation fighting for the inclusion and recognition of non-binary people in law, media and everyday life within the UK: <http://nonbinary.co.uk>
- = **Press for Change** is a political lobbying and educational organisation that campaigns to achieve equal civil rights and liberties for all transgender people in the UK through legislation and social change: www.pfc.org.uk
- = **Scottish Transgender Alliance** is a project funded by the Scottish government Equality Unit to assist transgender people, service providers, employers and equality organisations to engage together to improve gender identity and gender reassignment equality, rights and inclusion in Scotland: www.scottishtrans.org
- = **Stonewall** is a campaigning organisation but also helps organisations including HEIs and colleges to recognise the benefits of the perspectives of lesbian, gay, bi and trans people for all employees, service users and members of the community. Recently Stonewall has published a series of publications on trans employees: www.stonewall.org.uk
- = **Transgender Zone** is an online resource that covers all aspects of transgender issues, including a section specifically for female-to-male trans people: www.transgenderzone.com

- = **TranzWiki** is a directory of the groups campaigning for, supporting or assisting trans and gender non-conforming individuals, including those who are non-binary and non-gender, as well as their families across the UK: www.transwiki.net

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Appendix: supporting trans people through medical processes

This section aims to provide people supporting trans staff and students with background information to ensure appropriate support is implemented.

While it is useful to have an understanding of medical processes, it is not appropriate to assume that all trans people will be medically transitioning, or to ask trans people intrusive questions about the medical processes they may opt for, for example detailed questions about the nature of any proposed surgery.

Medical assistance for trans people is based on the internationally accepted standards set by the World Professional Association for Transgender Health, which since 2011 has explicitly covered non-binary people as well as trans men and women. Despite changes in international standards, non-binary people can find accessing NHS medical services in the UK particularly difficult. While standards of care are similar across England, Scotland, Wales and Northern Ireland, they currently differ as Scotland has recently reviewed its protocols and at the time of writing interim principles were in place in England.

Medical services are separated for children and adults. The transfer to adult services at 17 or 18 is not always smooth and can be quite stressful for a young person at a time when they are studying for and taking qualifications and preparing to transition from post-school to further and higher education.

To qualify for medical assistance to transition on the NHS a trans person must have a diagnosis of gender dysphoria. However, the medical pathways for assisting trans people still tend to be based on a model developed when gender dysphoria was assumed to be a mental health condition. The framework is therefore controversial and perceived by many to be outdated and discriminatory. Consequently, it can act as a barrier to many trans people receiving the support they require and to having their gender legally recognised via the Gender Recognition Act.

Most NHS care is provided in gender identity clinics. A gender identity clinic will undertake a detailed enquiry into a person's gender development. A person's current life circumstances will also be assessed and psychological assessments will be conducted. In Scotland, trans people can self-refer to gender identity clinics. However in England, Wales and Northern Ireland, children and adults will need a referral to a gender identity clinic from their GP, child and adolescent mental health services or youth services. Often GPs can be unaware that they should refer people directly

to a gender identity clinic resulting in inappropriate referrals to mental health services and delays.

If a person is diagnosed with gender dysphoria, they will receive support in the form of information about life options and treatment possibilities. They may then decide to medically transition and share their trans identity. To achieve this, they may have speech therapy, hair removal and/or hormone therapy.

Hormone therapy can be an important part of the transition of both trans adults and children. In the UK children can be prescribed hormone blocking treatment at puberty giving the child the opportunity to consider their future without the discomfort of pubertal changes that do not match their gender identity. This medication is reversible. From the age of 16 (Scotland) or 18 (England, Wales and Northern Ireland), cross-sex hormones may be prescribed. Delay in accessing hormone treatment for children is associated with a significant risk of self-harm and suicide (House of Commons, 2016).

Some trans people are happy with the changes they experience as a result of hormone therapy, and may not feel a need for surgery. To qualify for genital surgery, trans people will need to undergo real-life experience, or experience in Scotland, whereby they are required to live, work and study in their self-identified gender on a daily basis for 12 months. They may require confirmation from their college or institution that they are doing so.

The length of time to access medical assistance in NHS gender identity clinics varies but it may be several years. Private healthcare is quicker, but owing to the huge growth in the numbers of people seeking assistance, there are also delays here too. The delays and uncertainty can lead to mental distress and has led to a large number of people self-medicating. Those who can may opt for private healthcare or explore the feasibility of undergoing procedures abroad.

Some trans people may require time off work or study for appointments (eg psychotherapy, voice therapy, hair removal), surgery, and recovery from surgery. Appointments to see a specialist may involve travelling long distances. For example trans people in Wales have to travel to England to access a gender

identity clinic and people in Northern Ireland have to travel to England for surgery. Consequently, the time off required for appointments could be more than a day. Following surgery the time for recuperation will vary greatly, from one week to around 12 weeks, depending on the nature of the surgery and the physical demands of the person's job or studies. If complications arise the time off required could be longer.

Equality Challenge Unit

Equality Challenge Unit (ECU) supports higher education institutions across the UK and in colleges in Scotland to advance equality and diversity for staff and students.

ECU provides research, information and guidance, training, events and Equality Charters that drive forward change and transform organisational culture in teaching, learning, research and knowledge exchange. We have over ten years' experience of supporting institutions to remove barriers to progression and success for all staff and students.

ECU believes that the benefits of equality and diversity and inclusive practice are key to the wellbeing and success of individuals, the institution's community, the efficiency and excellence of institutions, and the growth of further and higher education in a global environment.

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