

# Policy on Equality for Trans Staff and Students

## INTRODUCTION

The **Gender Reassignment Regulations (Northern Ireland) 1999** extend the **Sex Discrimination Order 1975** to make it unlawful to discriminate on grounds of gender reassignment in employment and training. The regulations make it unlawful to treat a person less favourably on the grounds that s/he intends to undergo gender reassignment, or is undergoing gender reassignment, or has at some time in the past undergone gender reassignment. The regulations cover direct discrimination, victimisation and harassment in employment or training on the grounds of gender reassignment, and apply to both staff and students.

In April 2008, the **Sex Discrimination (Amendment of Legislation) Regulations 2008** came into operation in Northern Ireland, and introduced protection from direct discrimination on grounds of gender reassignment in the provision of goods, facilities, services or premises.

The **Gender Recognition Act 2004** allows trans people who are able to satisfy the Act's evidence requirements to apply to a Gender Recognition Panel to seek full legal recognition. If a Gender Recognition Certificate is issued, and the person's birth was registered in the UK, they will be able to obtain a new birth certificate which does not disclose the fact that they have changed gender.

Where this policy refers to 'trans people' it has in mind people living with any of these identities. When it refers to 'gender identity' it covers both the fixed identity of people living in the gender of their birth and the more fluid identities of many trans people. Appendix 1 provides a glossary of terms to aid understanding of the social, medical and legal implications of trans issues.

## POLICY STATEMENT

The University celebrates and values the diversity of its workforce. The University will treat all employees and students with respect, and seek to provide a positive working and learning environment free from discrimination, harassment or victimisation. Any unwarranted or unwelcome comment or discussion about a person's appearance or altering appearance could constitute direct or indirect discrimination, victimisation or harassment, and will therefore not be tolerated.

Ulster University recognises that there can be differences between physical sex and gender identity/expression. The University will not discriminate against people on the grounds of transvestism, transsexualism, intersex conditions or any process of gender reassignment, begun or complete.

The University recognises that trans staff and students come from diverse backgrounds, and will strive to ensure that they do not face discrimination either on the grounds of their gender identity or with regard to other aspects of their identity (race, age, religion, disability).

The recognised Trade Unions and the Students Union have been consulted in drawing up this policy.

## **STAFF**

Staff will not be excluded from employment, promotion or any workplace benefits because of their gender identity. Staff will have equal access to training and development opportunities regardless of their gender identity.

Staff will be given reasonable time off work for medical appointments and other treatments relating to gender reassignment. Any sickness absences during and following in-hospital procedures will be dealt with under the University's Sickness Absence policy.

Assumptions will not be made that partners of staff are always of the opposite sex. Whenever possible, workplace benefits will apply equally to same sex and opposite sex partners.

The University will provide reasonable administrative assistance to a member of staff when dealing with outside agencies regarding name or legal status change, for example in relation to pension schemes, DSS, Inland Revenue, etc., where the University will, as required, assist with verifying any alteration to gender information.

## **STUDENTS**

Students will not be denied access to courses, progression to other courses, or denied fair and equal treatment while on courses or as alumni because of their gender identity.

The University welcomes and will provide appropriate facilities for trans students. In providing accommodation for students, special issues which may be raised by trans students will be treated sympathetically by the Accommodation Office. Students undergoing medical and surgical procedures related to gender reassignment will receive positive support from the University to meet their particular needs during this period.

## **GUIDANCE TO STAFF AND STUDENTS**

If a member of staff or student is considering undergoing gender reassignment, they should contact the Equality and Legal Manager. Students may also wish to contact Student Support Services and/or the Students' Union. A meeting can be arranged to discuss, in confidence, how the individual wishes to deal with their transition and agree to follow a process with which they are comfortable. An important part of this meeting will be to draw up a confidential plan for the period of transition and thereafter. Appendix 2 provides a useful checklist that covers most of the issues that need to be considered when an individual is going through this process.

## **CONFIDENTIALITY**

The University will provide a supportive environment for staff or students who wish it to be known that they are trans people. However, it is the right of the individual to choose whether they wish to be open about their gender identity. There is no compulsion on staff or students to reveal their transsexual status, nor can anyone insist they show a Gender Recognition Certificate.

The Gender Recognition Act makes it a criminal offence to pass information of a person's transsexual status to a third party without the consent of the trans person. The University will respect the confidentiality of all trans staff and students and will not reveal information without the prior agreement of the member of staff or student.

## **COMPLAINTS**

Transphobic abuse, harassment or bullying (name-calling/derogatory jokes, unacceptable or unwanted behaviour, intrusive questions) will be dealt with under the Bullying and Harassment Policy which states that the University has a zero tolerance attitude to such behaviour. It will be treated by the University as a disciplinary offence, which may include gross misconduct warranting suspension, dismissal or expulsion. To 'out' someone, whether staff or student, without their permission is a form of harassment and, possibly, a criminal offence, and will be treated as such.

If, in the interests of investigating a complaint, it is necessary to make disclosure of the person's trans status to particular named persons, that will only be done with the written permission of the trans person. If the trans person feels unable to agree to such disclosure it must be explained to them as to how this will impact the investigation of the incidents and the limits on any actions that can be taken.

Transphobic propaganda, in the form of written materials, graffiti, music or speeches, will not also be tolerated. The University undertakes to remove any such propaganda whenever it appears on the premises.

## **RECORD KEEPING AND DATA PROTECTION**

A person who has undergone gender reassignment has the right to live as if they had always been of the chosen gender. If an individual discloses their status as a trans person, or if they undergo a transition during their employment or studies, the University will need to identify the point at which their gender is changed on all personnel/student records and public references. The point at which these changes are made should be agreed with the individual. The name and pronouns on staff or students' records will be changed on receipt of either: a statutory declaration of name change accompanied by a doctor's letter asserting that the person is intending to undergo gender reassignment and has commenced living permanently in their preferred gender role; or a Gender Recognition Certificate or a birth certificate containing their new name and gender.

Once records have been changed nothing should remain on file that would disclose to a third person that a change has occurred. All material that cannot be disposed of will be placed in a sealed envelope and attached to file with the instruction 'Confidential: Personnel Manager Only'.

Once a person has obtained a Gender Recognition Certificate they can have their degree certificate and transcript issued in their new name. If a person has changed their name by deed poll or statutory declaration and is already living in that name then the University will also provide any new documents. There will be no mention of a person's transsexual status in references, reports or assessments.

Under the Data Protection Act, trans identity and gender reassignment would constitute “sensitive data” for the purpose of the legislation and must be processed as such.

## **MONITORING**

There is no legal requirement to monitor trans staff and students. The University currently monitors staff and students on their gender by asking them to state if they are male or female. This will remain the same unless legislation changes the requirements.

**Acquired gender**

The new gender of a person who has had their gender reassigned and/or legally recognised. It is possible for an individual to transition fully without surgical intervention.

**FtM**

Female-to-male transsexual person. A person who is changing, or has changed, gender from female to male.

**Gender**

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

**Gender dysphoria/gender identity disorder**

The medical term for the condition in which a person has been assigned one gender (usually at birth on the basis of their sex), but identifies as belonging to another gender, or does not conform to the gender role society ascribes to them. Gender dysphoria is not a form of sexual deviancy or a sexual orientation.

A person with gender dysphoria or gender identity disorder can experience anxiety, uncertainty or persistently uncomfortable feelings about their birth gender. They may feel that their gender identity is different from their anatomical sex. This, in turn, may lead to a fear of expressing their feelings and a fear of rejection, which may lead to deep anxiety, and to chronic depression and possibly attempted suicide. Sometimes a person with gender dysphoria assumes an identity in the opposite sex. This may involve undergoing hormone and, perhaps, surgical treatment to change their sex physically, although medical treatment is not a prerequisite of transsexualism or of being recognised in the acquired gender.

**Gender presentation/gender expression**

While gender identity is subjective and internal to the individual, the presentation of one's self, either through personality or clothing, is what is perceived by others. Typically, trans people seek to make their gender expression or presentation match their gender identity, rather than their birth sex.

**Gender reassignment/transitioning**

Gender reassignment is a process that 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. Gender reassignment or transition includes some or all of the following cultural, legal and medical adjustments: telling one's family, friends, and/or co-workers; changing one's name and/or sex on legal documents; living in the other gender for at least two years,

hormone therapy; and possibly (though not always) some form of chest and/or genital alteration.

### **Gender Recognition Certificate**

A certificate issued by a Gender Recognition Panel under the **Gender Recognition Act 2004** means that a holder of a full Gender Recognition Certificate (GRC) is legally recognised in his or her acquired gender for all purposes. This means that the person in question now belongs to the opposite gender in both a legal and a social context. The GRC will be issued to an applicant if they can satisfy the panel that they fulfil all the criteria outlined in the Gender Recognition Act 2004. The Act requires that the applicant has, or has had, gender dysphoria, has lived in the acquired gender for two years prior to the application, and intends to live permanently in the acquired gender. A full GRC also gives the holder the means to obtain a new birth certificate.

### **Intersex**

Intersex people are individuals born with anatomy and physiology that differs from contemporary ideals of what constitutes 'normal' male and female. Intersex conditions may arise as a result of certain congenital disorders or hormone imbalances in the foetus or placenta. Anatomical sex at birth may differ from the chromosomal or gonadal sex. Genitalia may be ambiguous, but can often appear totally female or totally male. Very rarely, individuals may have both testicular and ovarian tissue, with a mixture of secondary sexual characteristics. This may be accompanied by varying degrees of gender dysphoria, although this is rare. Often, but not always, people choose to present as either male or female.

### **Legal sex**

In the past, the legal sex of someone was defined by their birth certificate and could not be changed. The Gender Recognition Act 2004 means that people can now apply to gain recognition of their change of gender for all legal purposes.

### **LGBT**

Lesbian, gay, bisexual and transgender/transsexual. The forms of prejudice and discrimination directed against trans people can be very similar to those directed against lesbian, gay or bisexual people, which is why action and support groups often occur in an LGBT context.

### **MtF**

Male-to-female transsexual person. A person who is changing, or has changed, gender from male to female.

### **Physical (anatomical) sex**

Sex as determined by the match between body and sex organs – male, female or intersex. Sex refers to someone's physical or anatomical sex – in other words, the type of genitals they possess. Except in very rare cases of people who are intersexed, anatomical sex is well defined and easy to interpret.

### **Real-life experience**

Refers to the phase during gender reassignment in which the individual must live and work in their acquired gender before certain medical procedures will be carried out.

**Sexual orientation**

An orientation (or sexual attraction) towards persons of the same sex (lesbians and gay men), or an orientation towards a person of the opposite sex (heterosexual), or an orientation towards persons of the same sex and the opposite sex (bisexual). Sexual orientation is different from gender identity, and the two are not related. Trans people, like any other people, can be heterosexual, lesbian, gay or bisexual.

**Trans**

An inclusive term for those who identify themselves as transgender, transsexual or transvestite. The word 'trans' can be used without offence to cover people undergoing gender transition; people who identify as someone with a different gender from that in which they were born, but who may have decided not to undergo medical treatment; and people who choose to dress in the clothing typically worn by the other sex. This term should only be used as an adjective.

**Transgender**

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

**Transsexual person**

A person who feels a consistent and overwhelming desire to transition and fulfil their life as a member of the opposite sex. Someone in this position will have the medical condition gender dysphoria. This term should only be used as an adjective: individuals should be referred to as 'transsexual people' not 'transsexuals'.

**Transvestite**

A person who dresses in the clothing typically worn by the opposite sex. Generally, transvestites do not wish to alter their body and do not necessarily experience gender dysphoria.

## APPENDIX 2

### Checklist to consider when discussing a student or staff member's transition.

It may come as a shock to be told that a member of staff or student that you know intends to undergo gender reassignment. It is important to have a formal meeting with the trans student/employee and write an **action plan** with **agreed** timescales. The action plan should include:

- how the information will be managed and by whom?
- the date of living full-time in new role
- when to use single sex facilities
- when formal documentation will change
- when/if time may be required off for surgery.

### Telling colleagues/fellow students/staff

1. It is appropriate to discuss how other colleagues/students will be informed. The trans person might want to do this themselves or might want it done for them. If the latter is the case, it is important that the trans person still has some control over what people are told and the language that is used<sup>1</sup>.

### Name change

2. Identify which of the following cards/name badges will need to be changed:
  - University ID card
  - library card
  - student union card
  - National Union of Students card
  - club and society cards
  - volunteer/mentor ID badges
  - trade union membership badge
  - professional/learned body membership cards
  - fitness centre/gym membership card
  - accommodation access card
  - catering/food meal card
  - placement ID cards
  - course representative card.

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<sup>1</sup> *Leading Trans Equality: A Toolkit for Colleges*, Professor Stephen Whittle OBE Manchester Metropolitan University and Dr Lewis Turner Press for Change, CEL Research Programme 2007-08.

3. Replace or alter the following documents and materials:
  - on-line records, e-portfolio/record of achievements, academic biographies
  - all student/staff records and databases, enrolment forms, finance records
  - programme and module lists
  - personal tutor records
  - welfare/disability/counselling records
  - volunteering and mentoring records
  - course representative posters and contact details
  - committee minutes and records, e.g. boards of study, academic boards
  - certificates, e.g. training attendance, degrees, transcripts
  - course results sheets and conferment lists
  - club and society membership records
  - payroll (and banking details)
  - pension: death in service and dependents' benefits
  - insurance policies
  - student loan company/local education authority.

### **Process**

4. As appropriate line managers, the Policy Implementation Unit or Student Support will inform programme teams, students and other colleagues, support departments (finance, student records, accommodation, etc.), work placement providers, volunteer placements, committee chairs/secretaries, club and society members.
5. Find out if the student/staff member is intending to undergo gender reassignment surgery and when this will be.
6. If the student/staff member requires time off for surgery and recovery discuss what process/support/adjustments are needed to ensure the student/staff member remains on their programme of study/in employment, or can return when they have recovered.
7. Discuss any professional requirements or attendance requirements that may be affected by the person's absence for gender reassignment treatment. For example, 80% attendance rates, or number of hours in a school or on a hospital placement. Students should be supported, as any other student who has time away from the university due to sickness, so to ensure they can complete their programme of study on time.

### **Training**

8. Decide if there is a need for training and who should be trained, e.g. cleaners, catering staff, academic staff, finance staff, fellow students or colleagues.
9. Consider who will deliver this training (Staff Development, Policy Implementation Unit, trans organisations such as Press for Change, [www.pfc.org.uk](http://www.pfc.org.uk)). The local support group is Butterflies.

10. Decide what the training will cover and if the student/staff member will be involved to share their experience and expectations.

### **Genuine occupational qualification**

11. Find out if there any genuine occupational qualification (GOQ) requirements during the student's programme of study or staff member's work, e.g. counselling, social care, NHS, charities, schools.
12. Find out if there are any GOQ requirements on volunteer placements or work-based learning, e.g. women's refuges, rape crisis centres etc.

### **Ceremonies**

13. During awards ceremonies (volunteer/mentor awards, sports and societies awards, etc.), agree what name will be used whether or not a GRC has been granted or the person's name has not been changed legally.
14. During a degree ceremony, decide what name will be used if a GRC has not yet been granted or the person's name has not been changed legally (on certificate, in ceremony programmes, name read out, etc.).

### **Discrimination and harassment**

15. Ensure there are clear guidelines and processes to deal with direct or indirect discrimination, victimisation or harassment of a trans student or member of staff.
16. Develop clear processes to deal with discrimination on work placements.
17. Make sure the student is made aware of these processes.
18. Make sure members of staff, other students, work placement providers and contractors are made aware of their responsibilities.