



Procedure and Guidance for Supporting Transgender Staff and Service Users

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यदि तपाईंलाई यो कागजात कुनै अर्को भाषा वा स्वरूपमा चाहिएमा, कृपया फोन वा ईमेलद्वारा अथवा निम्न ठेगानामा पत्राचारद्वारा सम्पर्क गर्नुहोस्।

اگر آپ کو یہ دستاویز کسی دوسری زبان یا شکل میں درکار ہے تو براہ کرم ہم سے بذریعہ فون ای میل رابطہ کریں یا اس پتے پر لکھیں۔

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Equality Analysis Record

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1 Scope

- 1.1. South East Coast Ambulance Service NHS Foundation Trust (the Trust) is committed to ensuring that the rights, dignity and wellbeing of transgender (trans) people, including its staff, are upheld at all times by all Trust staff, including contractors, Community First Responders, Volunteer Car Drivers and other voluntary workers.
- 1.2. In order to understand the scope of this procedure and enable its implementation familiarisation with the terminology provided in Appendix B and with Appendix A: Context Information is essential.
- 1.3. This procedure is underpinned by the Trust's policy on equality and diversity to ensure that trans people in our care will be treated without fear of prejudice, discrimination or harassment. Staff must be treated in accordance with the gender role in which they permanently live.
- 1.4. The procedure has taken note of the Trust's legal responsibilities towards trans people who have the protected characteristic of 'gender reassignment' under the Equality Act 2010, that is, they are proposing to undergo, are undergoing or have undergone a process, or a part of a process, to align their physical presentation and expression with their gender identity. Note that the definition of gender reassignment under the Act will also include people who do not appear to have commenced any transition process. The Act also provides some level of protection for those who are perceived to be trans, or who are associated with them. It places a duty on employers to take positive steps to eliminate discrimination, promote equality of opportunity and foster good relations for all protected groups as defined in the Act.
- 1.5. It is always bad practice, and may be discriminatory, and a breach of the Human Rights and Data Protection Acts 1998, to disclose sensitive information relating to a person's changed gender status. In certain circumstances, it can be a criminal offence to disclose information relating to people who are protected by Section 22 of the Gender Recognition Act 2004 (see 3.8.1). Those protected must have lived in the new role for two years and have applied for a Gender Recognition Certificate. The majority of transgender people will not have a Gender Recognition Certificate.
- 1.6. The Trust also takes account of the statistics produced by the Equality and Human Rights Commission (EHRC) which informs the Trust's work with our patients; and in respect of our staff identifies the need for a safe working environment free from discrimination and harassment.

- 1.7. This procedure contains guidance on caring for a trans person who is a patient and for call takers when taking calls from trans people as patients. (Part 1)
- 1.8. From a staff perspective it sets out the procedures to support colleagues who would consider themselves to be covered by the umbrella term trans or transgender and especially those covered by the Equality Act as described above. Part 2 of this procedure covers, but is not limited to:
 - 1.8.1. Recruitment, selection and employment; Disclosure and Barring Service (DBS) Checks; dealing with discrimination and breaches of confidentiality; bullying and harassment.
 - 1.8.2. Supporting an employee and colleague through the transition process; change in social role; records; use of facilities; and impact on insurance and pensions.

2 Responsibilities

- 2.1. This is an enabling procedure under the Equality, Diversity and Inclusion Policy.
- 2.2. The **Chair of the Inclusion Working group** has overarching responsibility for the implementation of this procedure.
- 2.3. The **Inclusion Working Group (IWG)** are responsible for reviewing and providing feedback on any trends identified in relation to trans service users, staff and this procedure. The IWG will oversee the development and monitoring of this procedure, referring to the relevant Committee for further action any remedial action plans to address any deficiencies within this procedure and / or persistent non-compliance.
- 2.4. **The Trust's Directors** are responsible for overseeing the implementation of this procedure and any implications arising out of it that fall within their directorate.
- 2.5. **Heads of Department, all managers and team leaders** are responsible for implementation of this procedure across the Trust.
- 2.6. The **Inclusion Team** is responsible for providing guidance and support to managers and staff assigned in 2.4 above to implement this procedure across the Trust.
- 2.7. In relation to service users of the Trust, the **Trust** will:
 - 2.7.1. Monitor any trends that emerge and instances of non-compliance with this procedure. In the instance of non-compliance the issue will be raised for resolution with the manager responsible for the non-compliant individual or group.

- 2.7.2. Enable and maintain processes which protect the privacy and dignity of trans patients, especially during handover.
- 2.7.3. Enable fair and equal access to our services for all transgender (trans) people in our patient groups and in the wider community, free from discrimination.
- 2.7.4. Provide support to trans staff and to managers affected by the need to implement this procedure.
- 2.7.5. Monitor any trends that emerge and instances of persistent non-compliance with this procedure, reporting them to the IWG
- 2.7.6. Oversee and ensure remedial action plans are developed, monitored and implemented following recommendations and requests received from the IWG and / or the relevant Committee.
- 2.8. The **IWG** are responsible for:
 - 2.8.1. Enabling and maintaining processes which protect the privacy of trans staff records.
 - 2.8.2. Enabling a fair and equal recruitment and selection process for trans people, free from discrimination.
 - 2.8.3. Liaising with applicants who have undergone or who plan to undergo transition, and staff to support the acquisition of DBS checks.
- 2.9. **Staff who are planning to undergo transition, their managers and support teams (if in place)** are responsible for ensuring that a Memorandum of Understanding is developed, maintained and implemented, including elements relating to medical issues and capability. The detail in the Memorandum will vary between individuals. It must be flexible, reviewed and amended as necessary.
- 2.10. **All managers** have a responsibility to implement this procedure in their work areas to:
 - 2.10.1. Make sure that everyone in their work area is aware of, and observes, the required standards of behaviour.
 - 2.10.2. Treat any staff questions relating to the gender identity of another member of staff sensitively, promptly and confidentially within the guidelines of this procedure.
 - 2.10.3. Give support (or ensure that it is given by others) to the member of staff if required.
 - 2.10.4. Adhere to this procedure following disclosure.

- 2.11. **All staff:**
- 2.11.1. Have personal responsibility for ensuring that their own behaviour complies with the standards set out in the procedure. Staff should disclose any concerns regarding their treatment or that of trans people to their line manager or any Trust Manager.
- 2.11.2. Have a responsibility to protect information they receive or become aware of in relation to trans individuals. Information must not be shared, unless a trans individual specifically gives permission, or the law requires it. Even in the latter case, the trans individual should be informed, and have the opportunity to comment before sensitive information is shared, unless they are incapacitated.
- 2.11.3. Should note that under the Equality Act (2010), religion or belief cannot be used for non compliance with this procedure.
- 2.12. Through its **Employee Assistance Programme**, the Trust provides for confidential support and advice to any member of staff who is transitioning, or is involved in a claim of bullying and harassment.
- 2.13. It is the responsibility of the IWG to consider the needs of non-binary staff and services users, so policies and procedures can be developed.

3 Procedure

- 3.1. **Part 1: Caring for trans people as patients (Guidance)**
- 3.2. **Social interactions and pronouns:** It is crucial to use the correct pronouns, names and titles when speaking to trans people. Nothing is more distressing than being regarded as a man when you identify as a woman, or vice versa. You will usually be guided by the person's name, dress and presentation, but if you are not sure, ask politely how they wish to be addressed. Particularly for patients, relatives can sometimes help, but occasionally they do not approve of the person's change of gender status and may give misleading information.
- 3.3. **Awareness of physical characteristics**
- 3.3.1. **Trans women**, that is those who identify as women but were registered male at birth, may or may not have had genital surgery, so their secondary sex characteristics may be male. They may wear very restrictive underwear to conceal their genitalia.
- 3.3.2. Trans women may be taking a hormone-blocker (gonadotrophin hormone releasing analogue) plus oestrogen and are likely to have some breast development as a consequence. After genital surgery has taken place, they usually remain on oestrogen for the rest of

their lives, which slightly raises their vulnerability to circulatory conditions, such as Deep Vein Thrombosis (DVT) and cerebral vascular accident (CVA). In most circumstances, hormone treatment should not be interrupted, however, prior to planned surgery it is usually stopped for a few weeks, but the hormone-blocker may continue until the surgery and sometimes for a short while afterwards. Some trans women may be wearing some form of prosthetic bra. Those who take hormones but who do not change their gender role are also likely to have breast tissue despite presenting as men.

- 3.3.3. Those who have transitioned in middle age or later may need to wear wigs or hair systems which can be taped or glued in position for extended periods. Try to ensure that wherever possible, that these stay in place whilst providing care.
- 3.3.4. Following genital surgery, inserting a catheter may be done in the same way as for any other woman, although sometimes the urethra retains its upwards direction at the point of insertion.
- 3.3.5. **Trans men**, that is those who identify as men but who were registered female at birth, may have had genital surgery, but the majority do not, and their external genital appearance will be female, although they may have some clitoral enlargement due to testosterone administration. They may wear a 'packer' in their underwear to create a male genital profile. Some may undergo hysterectomy and oophorectomy, but some retain their reproductive capacity for a few years and may become pregnant and give birth.
- 3.3.6. Testosterone masculinises the appearance, so trans men often have facial and body hair, and some develop male pattern baldness. Usually they remain on testosterone for life. If they wish to become pregnant they stop testosterone to re-establish menses. Trans men are at slight risk of polycythaemia.
- 3.3.7. They may have early surgery to reconstruct a male chest appearance. Until that point, they usually wear breast binders, which are extremely constricting. These would probably need to be cut off before any resuscitation could take place.
- 3.3.8. Those who have had a phallus constructed may have a urethra that is placed through the phallus, or it may still be positioned under the phallus, at its base. During the first year after surgery, the phallus will only gradually be regaining skin sensation so great care is needed to prevent accidental damage to the tissue. This needs to be taken into account when removing or replacing a catheter or clothing.

3.4. **Handover**

- 3.4.1. On arrival at the hospital, in addition to the usual information that is passed on to the medical staff, any known relevant medical information regarding a person's trans history may be passed on, with the express permission of the person concerned, unless he or she is unable to consent.
- 3.4.2. Staff caring for trans patients must ensure that trans people have access to appropriate facilities whilst in their care, which accord with their full-time presentation. If a person is to be hospitalised in single-sex accommodation, this also should be in accordance with their full-time presentation, unless there are medical reasons for not doing this¹.
- 3.5. **Guidance for call takers when taking calls from Transgender (Trans) People as Patients**
- 3.5.1. **When voice and gender identity appear not to match**
- 3.5.2. There will be occasions when an operator may either be unsure of the gender status of a caller or may inadvertently address the caller in the wrong gender. Although this 'misgendering' of a person may arise in any situation and can be upsetting, it is particularly so for trans individuals; the impact can cause great embarrassment for both parties.
- 3.5.3. Over recent years the number of trans people transitioning to live in the gender role that does not match their sex as registered at birth has risen dramatically. It is now estimated that 1% of the population experiences some degree of mismatch between gender identity and sex, an unknown proportion of whom will transition to the other gender role, therefore it is increasingly probable that **999** or **111** operators will encounter voices that conflict with name/title.
- 3.5.4. The main issue is likely to be associated with trans women – those registered at birth as male, now living as women. Many trans

¹ GIRES: published by Equality and Human Rights Commission:

<http://www.equalityhumanrights.com/advice-and-guidance/before-the-equality-act/guidance-for-service-users-pre-october-2010/health-and-social-care/being-treated-with-respect/hospital-accommodation-for-trans-people-and-gender-variant-children/>

women are unable to raise the pitch of their voice and treatment with female hormones has no impact on this so, particularly on the phone, their voices will sound masculine. However, the voices of trans men (those registered as female at birth, now living as women) do respond to male hormone treatment and are more likely to have a pitch that matches their gender presentation.

3.5.5. Trans people are often particularly sensitive to being misgendered when using the telephone. Call operators, of course, have no wish to cause any embarrassment. It is usually the case that the operator will form a strong mental perception of the gender status of the caller from the first few words spoken and this will condition a gender-specific response which, in the case of a trans woman, may be inappropriate; the assumption may be that she is a man.

3.5.6. If the caller's gender is either not obvious or does not match any name/title given this may cause difficulty for the call operator. If in doubt, the best response is to ask the caller how they wish to be addressed. If the caller complains that a mistake has been made, for example: "I said my name was Susan, why did you refer to me as sir"? A polite response would be to apologise and to ask the caller how they would prefer to be addressed. In emergency situations, it is acknowledged that there may not always be time for such pleasantries, but inappropriate pronouns do cause stress and may make an already difficult situation worse, thus lessening the chance of receiving accurate information.

3.5.7. If the caller is referring to another person for whom medical care is required and says, for example, "My Dad's collapsed", but then continues, "her name is Mary Baker", the call operator should use female pronouns when asking any follow-up questions, such as "has she lost consciousness". Clearly the most important issue when taking a 999/111 call is to obtain all necessary information about the nature of the emergency and the patient's state in the shortest time possible.

3.5.8. On the rare occasions where an ambulance may be called by a trans man who is about to give birth, male names, titles and pronouns should still be used in accordance with his gender status.

3.6. **Concerns and complaints**

3.6.1. Complaints about discrimination or harassment on the basis of gender identity are taken very seriously within the Trust and could, on full investigation, may need further training and action under disciplinary procedure. If the complainant receives worse or further discriminatory treatment as a result of the complaint, that would amount to 'victimisation' under the Equality Act. As stated at 1.4, trans people who are proposing to undergo, are undergoing or have undergone a process, or part of a process to live in a role that is congruent with their gender identity are specifically protected by

the Equality Act 2010. Humiliating or degrading treatment could breach Article 3 Human Rights Act 1998. Furthermore, individuals may render themselves liable to prosecution under the Protection from Harassment Act, (1997).

3.7. **Part 1 – Supporting trans staff**

3.8. **Data protection and security of information**

3.8.1. Section 22 of the Gender Recognition Act 2004, holds: “It is an offence for a person who has acquired protected information in an official capacity to disclose the information to any other person.” More information and guidance on criminal law protecting GRC applicants/gender history is provided at Appendix E. This includes what information can and cannot be disclosed, as well as the definition of “official capacity”.

3.9. **Recruitment, selection and employment (Guidance and practice)**

3.10. In most cases the gender of an employee is of no relevance to their ability to do their job. The Trust is committed to ensuring the fair employment, development and promotion of all, regardless of any of the protected characteristics, as set out in the Equality Act 2010. As such, The Trust is committed to ensuring potential employees are not discriminated against in the recruitment process. Positive Action may be taken where two candidates are equally qualified, but one is a member of an under-represented minority group.

3.11. For guidance purposes, case scenarios for the Trust’s recruitment and selection team are provided within Appendix D: Applications for recruitment by trans people.

3.11.1. **Interviewing and selection**

3.11.2. The Trust acknowledges that applicants and interviewees for employment would not necessarily wish to disclose their trans status. The Trust will not ask questions relating to gender status at interview, as it is not a relevant criterion in selection.

3.11.3. The Trust also acknowledges that there is no obligation for a trans person to disclose their status as a condition of employment. If they choose to disclose it, this is not in itself a reason for not offering employment. Moreover, non-disclosure, or subsequent disclosure, are not grounds for dismissal.

3.11.4. Any forms and documents that are provided during the interview and resulting procedures will be considered confidential and will not be accessible by anyone outside of the recruiting manager, the HR department and the employee themselves.

- 3.11.5. The Trust treats trans related information about applicants and existing trans employees as though that information is covered by the Gender Recognition Act 2004 whether or not the individual has applied for or been granted a Gender Recognition Certificate (GRC). More information on GRCs is provided throughout this document and in Appendix B- Terminology; Appendix D – Applications for employment of trans people; and Appendix E – Criminal Law protecting GRC applicants / gender history.
- 3.11.6. The Trust also acknowledges that the interview process itself can be very stressful for trans people in terms of concerns around how to dress and how they will be perceived. In this respect, people involved in the selection process will receive Equality and Diversity training that is relevant to recruitment and selection. Every effort will be made by The Trust to put all candidates at ease during the selection process.
- 3.12. **Disclosure and Barring Service (DBS) Checks**
- 3.12.1. Many posts within the Trust require that the employee has a satisfactory DBS disclosure. Part of this process involves a strict requirement for applicants to state all previous names and aliases. The last page of the form then has to be completed by the Registered Person, who checks and verifies the contents and the evidence supplied. This means there can be some anxiety about the implications of this for trans applicants and existing staff.
- 3.12.2. DBS applications need not be a problem for trans people, however. There is a special process which they can follow in order to avoid problems they would otherwise face in complying with the requirement to make truthful statements. This process does not weaken the effectiveness of the process in any way.
- 3.12.3. Further information and more detailed steps are explained on the Disclosure and Barring Service web site. Applicants may telephone the DBS on 0300 0200 190 to discuss this matter in confidence or can email: sensitive@db.s.gsi.gov.uk.
- 3.12.4. The disclosure process is as follows:
- 3.12.4.1. Trans applicants for a disclosure should contact DBS on the above number / email to clarify anything they are not sure about and ensure that the DBS know they will be using the special provisions.
- 3.12.4.2. The trans applicant should complete the form provided in the normal way, except that they need not complete details (or supply forms of evidence) that would expose their gender history to their employer.

- 3.12.4.3. If they wish to leave out details that could identify their trans history, then they should photocopy the form, ensuring they have a clear record of the application serial number.
- 3.12.4.4. The applicant should then immediately contact the DBS on the number above and notify them of the application number.
- 3.12.4.5. The special security section of the DBS then have the means to intercept the application forwarded by the employer. They will ask the applicant to supply the information needed to replace that which was omitted. This is then joined up so that a rigorous criminal records check can be undertaken in the same way as for any other applicant.
- 3.12.4.6. Disclosures sent to the employee and their employer will not reveal the applicant's former identity unless they have an offence or caution that has been recorded in that name in police records. In this case there is no way of avoiding the disclosure of that former identity to the employer.
- 3.12.4.7. Additional information and guidance on the Disclosure process is provided in Appendix C.
- 3.12.4.8. If the offence itself is not sufficiently serious to preclude employment, reassurances should be given to the applicant / employee.

3.13. **Bullying and Harassment**

- 3.13.1. The Trust has a zero tolerance policy towards bullying and harassment. The Equality Act requires the Trust to 'eliminate' such behaviour which means taking pre-emptive steps such as training, and publicising information, particularly in relation to 'protected characteristics'. All employees are entitled to receive equal support and protection from the Trust, in accordance with our policies and procedures, to ensure that they are not victims of harassment and bullying. Employees and managers should refer to the Trust's Bullying and Harassment Policy and the Human Resources Service Delivery Team for further guidance.
- 3.13.2. Telling a trans related joke may be considered harassment if anyone present was trans, has trans relatives or friends. This would constitute offensive conduct and it creates a 'hostile environment' even where no trans person, friend or relative is present. The Trust expects such behaviour to be challenged and dealt with under the bullying and harassment policy.

3.14. **Dealing with discrimination and breaches of confidentiality**

- 3.14.1. As noted in 3.6.1, complaints about discrimination on the basis of gender identity are taken very seriously within the Trust and could,

on full investigation, provide grounds for disciplinary action that may lead to dismissal, or the need for specific training. As stated at 1.4 and 3.6.1, those discriminated against on the grounds of their 'gender reassignment' characteristic are protected by the Equality Act 2010. Humiliating or degrading treatment could breach Article 3 Human Rights Act 1998. Furthermore, individuals may render themselves liable to prosecution under the Protection from Harassment Act, (1997). Employees who believe they have been subjected to discrimination are advised to raise the matter under the Trust's Grievance Procedure.

- 3.14.2. The disclosure of a person as trans is a severe breach of confidentiality, unless consent is given by the person concerned. This may indicate a need for further training and action under disciplinary procedure.
- 3.14.3. Employees and managers should refer to the Trust's policy and procedure on Bullying and Harassment, the Grievance Procedure and the Information Governance policies for further guidance.
- 3.15. **Supporting employees who elect to undergo medical and / or surgical treatment related to gender reassignment**
- 3.16. **Time off work**
 - 3.16.1. Trans people undergoing medical and surgical procedures related to gender reassignment are likely to require time off from work. The first stage of reassignment, under the supervision of a qualified medical practitioner, may take several months or years. Medical appointments are likely to be required during normal working time.
 - 3.16.2. Typically, a period of 12 months living in the new role before the individual is accepted for genital reconstructive surgery, if that is a chosen option, is required. The time off work will vary greatly from two to around twelve weeks, depending on the nature of the surgery undertaken.
 - 3.16.3. As far as possible, the Trust will discuss with the employee how much time would be needed to undergo gender reassignment surgery. When the employee is absent for treatment or surgery, then normal sick pay entitlements will apply.
 - 3.16.4. The normal policy for medical appointments will apply and employees and managers should refer to the Sickness Absence Management Procedure for guidance. As a matter of good practice, the Trust offer flexibility to employees who may need to take holiday or rearrange working hours in order to attend additional appointments, for example, electrolysis (for the removal of facial or genital hair).

- 3.16.5. The Trust will not count absences related to the gender reassignment process in trigger points for absence monitoring, however all other sickness absence will be recorded and managed in accordance with the Sickness Absence Management Procedure.
- 3.16.6. There is no specific minimum or maximum time employers should grant to a person undergoing medical and/or surgical treatment related to gender reassignment. The Trust will show the same flexibility as for someone undergoing any other potential major operation. It should be noted that absences from work in order to have treatments linked to gender reassignment, are protected under the Equality Act 2010, and may not be used to disadvantage a person in terms of, for instance, promotion.
- 3.17. **Long term sickness**
- 3.17.1. Complications may arise as a result of medical treatment for gender reassignment resulting in prolonged incapacity for work. As with any other long-term incapacity or condition, the employee will be supported and monitored by Occupational Health and HR. Instances of long term sickness absence will be managed sensitively.
- 3.17.2. If incapacity continues beyond normal expectations for the process undergone, a trans employee will be assessed by the Trust's Occupational Health Provider. Following the assessment, and subsequent management meeting/s, the employee may be retired on medical grounds, moved to a different role or terminated in the same way as any other person who becomes unfit for employment, in accordance with the Sickness Absence Management Procedure.
- 3.18. **Supporting employees through the transition process**
- 3.19. **Agreeing a process**
- 3.19.1. Employees who are intending to go through the transition process are encouraged to speak to their line manager as early as possible so that appropriate support can be provided.
- 3.19.2. In order to successfully support and manage an employee's transition from one gender role to another, the Trust will ensure that the employee is fully consulted and asked to give their views on how the process should be handled.
- 3.19.3. A Memorandum of Understanding (MoU) should be drawn up, which indicates the responsibilities of the Trust and its commitment to support the person who is planning to transition. This is a confidential document.
- 3.19.4. During the initial consultation meeting, the line manager will consider the issues below for inclusion in the MoU:

- The timing of the transition;
- Prior training (if this has not already been undertaken); how much, for whom and by whom;
- Disclosure, who will undertake this, when and how this will happen;
- Further involvement of HR; Occupational Health and welfare issues; capability issues; pensions
- Name change; updating records and systems; confidentiality
- Access to toilets and other same sex facilities.
- Counselling, support, dealing with any harassment; appoint a mentor if needed;
- Any media handling required.

3.19.5. **Timing:** certain milestones and preparatory steps that need to be taken must be discussed. The individual concerned should be asked to propose a date for the change of gender role which should be agreed by all parties if possible. Some people prefer to take a brief time off work and return in the new role. The point of transition in the workplace is the moment that has the potential to lead to other people behaving in a prejudiced or discriminatory fashion. Timing of procedures such as medical appointments, may be discussed, bearing in mind that those who are treated in the NHS will not be able to predict timescales and dates.

3.19.6. **In-house training:** general training should be standard across all protected characteristics, especially those about which people know least. If further training is thought to be necessary, perhaps for those in direct contact with the trans person, before the change of role, the potential providers of the training will need to be identified and engaged. If time does not permit training to occur before transition of the individual, then, at the very least, e-learning should be accessed. (see <http://www.gires.org.uk/localauthorities.php#elearning>)

3.19.7. Considered, sensitive and well-documented discussions should identify and resolve potential areas of conflict before they arise.

3.19.8. **Disclosure:** a crucial element of this meeting is to decide who should be told what, and when and how this should occur. Some people prefer to talk to immediate colleagues personally, perhaps with the option of having a colleague, HR or Union representative present to give support. If the individual plans not to involve colleagues in the disclosure process, but to do it independently, then the timing and extent of disclosure should be shared with the

line manager beforehand, in case of any repercussions; the line manager must respond to any harassment or hostile.

- 3.19.9. Some prefer not to tell others, but to leave this entirely to one of these colleagues or the line manager. At Appendix B there is an example of an email that could go out to the wider group of employees. The Trust will not inform colleagues, service users, the public and other external stakeholders that an employee is intending to undergo, or is undergoing, or has undergone gender reassignment, without the employee's explicit agreement.
- 3.19.10. **HR and Occupational Health (if relevant):** Matters such as Pensions and Insurance must be discussed with HR (see 3.22). Occupational health and welfare will assess the capacity at any point, for the person to do jobs that may, for instance, involve heavy lifting. Although some people may prefer temporary re-deployment, for example following surgery, trans people must not be pressured into doing alternative work if they don't wish to. Uniforms where applicable, should be discussed and arranged in advance of transition.
- 3.19.11. **State Pension:** A person is treated as their legal sex for pension and retirement purposes until they are awarded a GRC. However, for those born after 5 April 1955, there is no difference in state benefits for men and women. Otherwise, those born prior to April 1955 can only claim state pension at the age appropriate to the sex on the original birth certificate - that is for trans women at age 65 and for trans men at 60. It is the responsibility of the Trust to take suitable steps to keep confidential the reason for the individual's apparently early or late retirement.
- 3.19.12. **National Insurance:** A trans woman without a GRC below the male retirement age will pay employee national insurance contributions.
- 3.19.13. The individual has responsibility to inform Tax and National Insurance offices that there has been a change of name and gender role. Although documentation for Tax/National Insurance (NI) will henceforth be in the correct name/gender, the legal gender remains that on the birth certificate.
- 3.19.14. It is Inland Revenue and NI procedure to address the tax and NI of those who have changed gender role, in a secure manner in a dedicated office. The Tax /NI office is switched when the trans person notifies them of the change in gender role. Clearly, as their affairs are being addressed by a different office, this in itself can draw attention to an unusual status.
- 3.19.15. Any implications associated with insurance and pensions (and these may be very significant) must be established.

- 3.19.16. **Name change:** A trans person will be able to change their name at the Trust on production of a Change of Personal Details Form. This document must not be accessible to others. HR records for transgender employees (paper and electronic) should not refer to a previous name, and records made prior to a change of name should be updated with the employee's new name. Access to records showing the change of name and any other details associated with the employee's transgender status, such as records of absence for medical treatment or the appropriate deed certificates will be restricted to the fewest number of staff.
- 3.19.17. **Personnel records** must be updated at transition. The Trust will, where possible, create new records rather than amend old ones, to ensure confidentiality, adhering to Data Protection principles at all times with access strictly controlled. Old paper records must be kept in double sealed envelopes, separately from other files. The name of the person or persons who may access this material should be agreed by the trans person, and written on the outer envelope. Access should still be endorsed by the individual concerned, unless he or she is incapacitated. IT records must be password protected. To protect confidentiality, once the trans person has transitioned and new documentation has been created, any past documentation that is no longer relevant may be destroyed. (See Keeping Records at 3.21.) (Note: a person joining the Trust may have already transitioned elsewhere, prior to 2012, and may have a Gender Recognition Certificate. See Appendix B- Terminology; Appendix D – Applications for employment of trans people; and Appendix E – Criminal Law protecting GRC applicants / gender history.)
- 3.19.18. **Toilets and other facilities:** The point for starting to use opposite gender facilities will be the day the employee starts coming to work in the new gender role. Unless he or she chooses otherwise. Other potential users of the facilities should have trans awareness training to help them to be properly prepared, to welcome any trans person who is starting to use the facilities. It is not appropriate to request that a trans person use accessible toilet facilities. If others do not wish to share facilities with a trans person, then they, rather than the trans person should be directed to accessible facilities.
- 3.19.19. Where locker or shower facilities are open plan, then the Trust will review this and, at the least, will provide some provision (e.g. curtained spaces) where staff need not be in a state of undress in the presence of others. If it is genuinely impossible to adapt locker or shower facilities in order to accommodate a pre-operative member of staff in a state of undress, then the Trust will make reasonable adjustments for the employee concerned. If planning alteration work or commissioning a new building, consideration should be given to providing more gender-neutral facilities, and/or changing the labelling on some facilities so that they are gender

neutral. Greater privacy may be provided by having more cubicles, and by having partitions that extend from floor to ceiling, and doors that extend to the floor.

3.20. **Counselling and support; dealing with harassment:**

- 3.20.1. In order to show support for a newly transitioned trans person it is very important to refer to the trans person by their new name and use pronouns appropriate to their new gender role. Failure to do this, if it is deliberate behaviour rather than an accidental slip, would be harassment under the Equality Act and degrading treatment under the Human Rights Act.
- 3.20.2. The Trust will address any genuine concerns that employees may have, and will resolve any issues quickly. However, the Trust acknowledges that, no matter how much preparation is made and support given, there may still be people who do not understand the situation or are unsympathetic. It is not acceptable for other employees to refuse to work with a trans person on the grounds of their gender reassignment. This must be made clear in any general training or specific discussions with work colleagues. If this arises, it is the responsibility of the Trust to take a robust view in dealing with the issue. Any incidents of misconduct, harassment, bullying or victimisation will be dealt with promptly and in accordance with the Trust's Disciplinary Procedure.

3.21. **Keeping records**

- 3.21.1. In addition to the name and record changes mention in the MoU, the Trust will ensure that all documents and public references such as telephone directories, intranet contacts etc., and employment details reflect the affirmed gender of the person. This will prevent any breach of confidentiality.
- 3.21.2. If the Trust is asked for a reference for a trans person, it will be provided, without indicating in any way, that the person has had a change of gender presentation.
- 3.21.3. If the Trust needs to keep evidence of professional status or qualifications, this will be discussed with the employee concerned in order to agree how to retain such evidence on file (if, for example, certificates are in the employee's original name) so as not to compromise or breach disclosure of protected information.
- 3.21.4. In some instances, however, it may be necessary for the Trust to retain, prior to the employee obtaining a GRC, records relating to an employee's identity at birth, for example, for pension or insurance purposes.
- 3.21.5. Trans people in employment may choose voluntarily to disclose information at a secondary level, for example, answering an equal

opportunities monitoring questionnaire, or asking for support from their line manager. In such circumstances, the Trust employees who become aware of this must maintain strict confidentiality, as further disclosure must not be made without the express permission of the trans person.

3.22. Pensions

3.22.1. Entitlement to state pension

3.22.2. For state pension purposes a trans person will be treated according to their affirmed gender.

3.22.3. Trans people who do not obtain a GRC retain their state pension rights in accordance with the sex that is recorded on their birth certificate.

4 Audit and Review

4.1. The IWG, will review this procedure every three years, or sooner if new legislation, codes of practice or national standards are introduced.

4.2. If the review indicates that substantial changes are required to be made to the procedure, these will then be implemented subject to full consultation with relevant stakeholders.

4.3. If it comes to light through the review, or through any other source of information, that there is non-compliance with any aspect of this procedure, this should be notified via the IWG, who will ensure the appropriate person provides feedback to the manager involved.

4.4. Individual employee non-compliance may be resolved under the Trust's Disciplinary Procedure.

5 Equality Analysis

5.1. Equality Analysis has been undertaken and no adverse impacts identified. However, the Trust will continue to be alert to the fact that Policies and Protocols which are neutral in their application to most of the population, may have unintended negative consequences for trans people. This could amount to indirect discrimination. This document was created by reviewing other companies' guidelines, conversations with multiple people involved with trans issues, and in partnership with the Gender Identity Research and Education Society and staff at all levels. This topic is evolving in the Trust. Should you have questions, concerns, or suggestions for improvement, you are encouraged to start a dialogue. This document has been created to open dialogue and help people through a potentially difficult and stressful experience.

Its impact and effectiveness depends completely on the open and honest feedback of those affected by trans issues.

6 Associated Documentation

- 6.1. Equality, Diversity and Human Rights Policy
- 6.2. Complaints Policy
- 6.3. Complaints Procedure
- 6.4. Conveyance, Handover and Transfers of Care Procedure
- 6.5. Discharge Procedure
- 6.6. Resuscitation of Adult and Paediatric inc DNACPR
- 6.7. Safeguarding Policy
- 6.8. Patient Data and Health Records Management Policy
- 6.9. Patient Data and Health Records Management Procedure
- 6.10. Lone Worker Policy
- 6.11. Health and Safety Policy
- 6.12. Bullying and Harassment Policy and Procedure
- 6.13. Data Protection Policy
- 6.14. Recruitment and Selection Policy
- 6.15. Training, Education and Development Procedure
- 6.16. Sickness Absence Management Policy
- 6.17. Disciplinary Policy and Procedure
- 6.18. Capability Policy
- 6.19. Uniform Procedure
- 6.20. Being Open and Duty of Candour Policy
- 6.21. Being Open and Duty of Candour Procedure
- 6.22. Inclusion Strategy
- 6.23. The Trust's Equality and Diversity System (EDS) framework

7 References

- 7.1. Codes of Conduct (NHS) which set out acceptable behaviour at work
- 7.2. The following legislation and national guidance are relevant to this Procedure:
 - 7.2.1. Equality Act (2010)
 - 7.2.2. Gender Recognition Act (2004)
 - 7.2.3. Employment Rights Act 1996
 - 7.2.4. Health and Safety at Work Act 1974
 - 7.2.5. Management of Health and Safety at Work Regulations 1992
 - 7.2.6. Disability Discrimination Act of 1995
 - 7.2.7. Sex Discrimination Act
 - 7.2.8. Race Relations Act
 - 7.2.9. Protection from Harassment Act 1997
 - 7.2.10. Criminal Justice and Public Order Act 1994
 - 7.2.11. Article 3 of the Human Rights Act of 1998
 - 7.2.12. Malicious Communications Act 1998
 - 7.2.13. Bullying and Harassment at Work (Advisory, Conciliation and Arbitration Service, April 2009)
- 7.3. **Useful links to further information:**
 - 7.3.1. The Gender Identity Research and Education Society
www.gires.org.uk
 - 7.3.2. Human Rights Campaign www.hrc.org/workplace/transgender
 - 7.3.3. Gender PAC www.genderpac.org
 - 7.3.4. World Professional Association for Transgender Health:
www.wpath.org
- 7.4. **Further information, advice and training:** The Trust is a corporate member of Gender Identity Research and Education Society (GIRES). In this capacity GIRES is available to help any employee affected. This may include providing a training workshop for the staff involved in, or affected by, the transition process. Contact can be facilitated by the Inclusion Manager or directly with the charity should anonymity be required, via the addresses or telephone numbers given on its website.

8 Glossary

- 8.1. Terminology used in the field of Transgender is provided in Appendix B, courtesy of GIRES.
- 8.2. **Service users:** patients and their carers ('carers' includes family members and friends) who may interact with the Trust during the care pathway of a patient.

Appendix A: Context information

The purpose of this appendix is to provide an understanding of gender reassignment process within a broader gender context and provide guidance and best practice which supports the Trust's Procedure for supporting transgender staff and service users.

The Trust does not impose sexual orientation requirements on its staff and equally cannot dictate their gender identity or reasonable expression thereof.

The information within this appendix has been provided by The Gender Identity Research and Education Society (GIRES) and was current as at March 2014.

Contents:

- Introduction
- Legislation
- The process of gender reassignment – overview
- Arrangements for those that wish to transition gender role permanently
- Medical treatment
- Financial issues
-

Terminology used in the field of Transgender is provided within Appendix B.

Introduction

Terminology in the 'Transgender' field is varied and constantly shifting as understanding and perceptions of gender variant experiences change. The concept of a 'normal' gender expression associated with a binary man/woman divide is, in itself, questionable. People have the right to self-identify, and many people, especially among the young, reject the whole idea of binary tick-boxes, and use more wide-ranging, open terms to self-describe. (A Terminology section is provided at the end of this paper to describe terms associated with change of gender role.)

Society expects people to express their gender in accordance with the sex assigned at birth. Trans people often make great efforts to conform to society's expectations of them, but this leads to great stress and even suicidality. Prevalence of nonconforming gender identities may be estimated by bringing together a range of government statistics and data generated from surveys. These indicate that in 2010 approximately 25 per 100,000 people had sought medical help, but 40 times that number remained hidden. A number of these hidden people are likely to seek help in the future. Hence there is substantial potential for many more to approach service providers. Indeed, there is general agreement among specialist service providers of gender treatments that the number of individuals seeking medical help, is growing rapidly. Current estimates are that growth is around 20% per annum.

Among gender variant youngsters seeking medical help the growth is even faster - 50% per annum.

A survey undertaken by the EHRC in 2012 found that 1% of their cohort (n=10,000) had taken steps, or intended to, which included for instance: name change; role change; medical intervention, indicating that they experienced gender feelings that conflicted with the way their birth-assigned sex and associated gender role. They, therefore, had the protected characteristic of gender reassignment under the Equality Act 2010, (see Legislation below),² although many may not have revealed that publicly. Those people in whom the feeling of discomfort is extreme will transition to live in accordance with their gender identity (their sense of self, as either men or women, sometimes both, or occasionally neither). This means that there will be a wide variety of gender presentations that do not conform to society's expectations.

In respect of our staff, in a workforce of approximately 4,000 staff, it can be expected that about 40 will be personally affected by gender dysphoria issues. There will be many more who do not fully associate with the sex they were assigned at birth, but who do not intend to change their gender role.

The process of gender reassignment – overview

Gender dysphoria is a self-diagnosed condition that is normally confirmed by a specialist in the field before medical treatment may begin. The trans person would typically visit the GP who would make a provisional diagnosis and refer to a Specialised Identity Service (SGIS).

The time between the visit to the GP and the commencement of treatment within a SGIS may take many months or years. Waiting lists for NHS funding for treatment vary around the UK, but they can be substantial. Appointments may involve travelling long distances, so are likely to take a whole day. Due to delays in the NHS, many seek private treatment that also requires specialist assessment, before hormone therapy can commence. It is also common for trans people to self-administer hormones with products from the Internet. Typically, the changes to physical appearance are slow in trans women, but may be slightly more rapid in trans men. Those who have had physiological intervention to suppress puberty during their teenage years will not develop

² EHRC, Glen, F & Hurrell, K, (2012) Technical Note: Measuring Gender Identity
http://www.equalityhumanrights.com/uploaded_files/technical_note_final.pdf

secondary sex characteristics: trans girls will be indistinguishable from other girls; trans boys will be indistinguishable from other boys. Many people take hormones for a considerable period before changing their gender role. However, some people start to live full time in their new gender role before they begin hormone therapy. People usually continue to work throughout this period, but it can be an extremely stressful time.

Those suffering extreme gender dysphoria have traditionally had a very high risk of suicide. One study indicated that 34% have attempted suicide at least once, compared with 1.6% in the general population.³ Undergoing transition is therefore potentially life-saving medical treatment and is not undertaken lightly by the person experiencing it. They transition because they must; it is not a lifestyle choice. Nor are medical decisions about treatment taken without careful prior assessment. By the time of transition, the individual's profound and persistent gender discomfort has usually become intolerable and living in a gender role that accords with the innate gender identity has become an urgent necessity. Note that treatment may or may not involve surgery.

There are rights, expectations and responsibilities of each party associated with a transition in the workplace. It is essential that open and honest communication be established to build trust between the manager with whom the trans person will work as a team to facilitate the transition). As stated in the Trust's Procedure for supporting transgender staff and service users, both the individual and the manager will agree the actions proposed, to ensure there is mutual understanding of what will be taking place and when. Nothing will be done without the consent of the transitioning individual.

A person undertaking transition should be supported, where possible, to stay in the same job, through gender role transition, unless he or she seeks to be re-deployed. If redeployment is requested the Trust should facilitate the move, and ensure that the new environment is properly prepared and work colleagues are appropriately.

³ Whittle, S, Turner, L, Al-Alami, M (200t) Engendered Penalties. Equalities Review. www.pfc.org.uk/pdf/EngenderedPenalties.pdf

Appendix B: Terminology

Source: The Gender Identity Research and Education Society:
www.gires.org.uk

Introduction

Terminology in the 'transgender' field is varied and constantly shifting as understanding and perceptions of gender variant conditions and gender nonconforming expressions change. The terms described below may vary in their usage and may become out-dated. The concept of a 'normal' gender expression associated with a binary man/woman divide is, in itself, questionable.

Affirmed Gender

The term 'affirmed' gender, is now becoming more common in describing the post-transition gender role which, at that stage, accords with the gender identity. *The gender identity does not change when a person transitions*; the gender role and appearance come into alignment with it. This would usually include dress and presentation and will often have been assisted by medical intervention. 'Affirmed' should be used in preference to 'acquired'; the latter is the language of the Gender Recognition Act, and is more appropriately used to describe the new legal gender status of the individual.

Cisgender

Those who are cisgender have little or no discordance between their gender identity and their gender role or sex anatomy. These factors are well aligned in a cisgendered person. Trans people who have completed transition to the point that they are comfortable, may then be regarded as cisgender.

Gender confirmation treatment

Those undergoing transition permanently usually have gender confirmation treatment that includes hormone therapy and often surgery to bring the sex characteristics of the body more in line with the gender identity. Such surgery is sometimes referred to as gender (or sex) reassignment surgery. The term 'sex change' is not considered appropriate or polite.

Gender fluid

Describes someone who does not feel confined by restrictive boundaries of stereotypical expectations of men or women.

Gender Identity

Gender Identity describes the psychological identification of oneself, typically, as a boy/man or as a girl/woman. There is a presumption that this sense of identity will evolve along binary lines and be consistent with the sex appearance. However, some people experience a gender identity that is somewhat, or completely, inconsistent with their sex appearance; or they may regard themselves as gender neutral, that is, non-gendered, or as embracing aspects of both man and woman and, possibly, falling on a supposed spectrum between the two. People have the right to self-identify, and many

people, especially among the young, reject the whole idea of binary tick-boxes, and use more wide-ranging, open terms such as pan-gender, poly-gender, third gender, gender queer, neutrois and so on.

Gender Recognition Certificate

In 2004 the Gender Recognition Act was passed, and it became effective in 2005. Those people who have undergone a permanent change of gender status may endorse their new gender status by obtaining legal recognition in the form of a Gender Recognition Certificate (GRC). Applicants must provide paper evidence to the Gender Recognition Panel indicating that they have already changed their name, title and gender role, on a continuous basis, for at least two years; there is an expectation that they intend to live in the altered gender role for the rest of their lives. A medical opinion indicating that the applicant has experienced gender dysphoria is necessary. However, no surgery is required. Successful applicants acquire the new gender status 'for all purposes', entitling them to a new birth certificate registered under the changed name and title, provided that the birth was registered in the UK.

The GRC has strict privacy provisions which must not be breached by any person acquiring such information, in an 'official capacity'. Disclosure to a third party could be a criminal offence (GRA s22) (some limited exceptions apply)

The Marriage (Same-Sex Couples) Act, 2013, will allow trans people to obtain a GRC within a pre-existing marriage, which will then become a 'same-sex' marriage. When a trans person obtains a GRC within a pre-existing Civil Partnership, that partnership must be changed into a marriage.

Gender role

The *gender role* is the social role – the interaction with others which both gives expression to the inner gender identity and reinforces it. Despite the greater gender equality in modern Western culture in terms of the subjects studied in school and at university; the choice of friends; work and domestic arrangements; dress and leisure pursuits, there is still a presumption of conformity with society's 'rules' about what is appropriate for a man or a woman, a boy or a girl, especially in terms of appearance. A significant departure from stereotypical gender expression often causes anxiety and discomfort in those who witness it.

Gender variance/ gender nonconformity/ gender dysphoria

It is now understood that gender identity, although powerfully influenced by the sex of the genitalia and the gender of rearing, is not determined by these factors. There is evidence that sex differentiation of the brain is inconsistent with other sex characteristics, resulting in individuals dressing and/or behaving in a way which is perceived by others as being outside typical cultural gender expressions; these gender expressions may be described as *gender variance* or *gender nonconformity*. Where conforming with society's cultural expectations causes a persistent personal discomfort, this may be described as *gender dysphoria*. In many, this includes some level of disgust with the phenotype, since this contradicts the inner sense of gender identity. Gender variant expressions should not be regarded as psychopathological,

but as a natural part of human experience. The discomfort described as gender dysphoria stems, in large part, from the stress associated with the reactions of others towards people who experience and express their gender differently.

Intersex conditions

There are a number of intersex conditions (recently renamed Disorders of Sex Development – a clinical description which many in the UK refuse to adopt). In some intersex conditions, the appearance at birth is atypical being neither clearly male nor female. The sex (male or female) assigned, and the anticipated gender role (boy or girl) assumed at that time, may not be consistent with the core gender identity and may, therefore, result in a need to change the gender role at a later stage. In addition, some of these individuals may have had surgery neo-natally to create (usually) a female appearance. An individual raised as a girl, following such surgery is at risk of identifying as a boy whose phallus has been removed.

Inconsistencies in development may be associated with atypical sex chromosomes such as Klinefelter syndrome (XXY), Jacob's syndrome (XYY), or atypical combinations of 'X' and 'Y', such as XXYYY, XYYY and so on, including mosaicism (more than one chromosomal configuration in the same individual). Genetic anomalies that are particularly associated with unusual genital appearance are: Androgen Insensitivity Syndrome, Congenital Adrenal Hyperplasia, 5 α reductase or 17 β Hydroxysteroid Dehydrogenase (HSD) deficiencies. Most of these conditions are associated with unusual pre-natal hormone levels. Other conditions such as Cloacal Extrophy may be included in this group since babies with this condition may have poor genital development.

Non binary

People who find they do not feel comfortable thinking of themselves as simply either men or women. Instead they feel that their gender identity is more complicated to describe. Some may identify their gender as being a combination between a man and a woman, or alternatively as being neither. Like transsexual people, non-binary people can experience gender dysphoria (sometimes as intensely as transsexual people do) and may undergo a process (or part of a process) of gender reassignment.

Sex

Sex refers to the male/female physical development – the phenotype. In an infant, the sex is judged entirely on the genital appearance at birth. Other phenotypic factors such as karyotype (chromosomal configuration) are seldom tested unless a genital anomaly is present. There is a presumption that an apparently male infant will identify as a boy, and vice versa.

Sexual orientation

Sexual orientation is a separate issue from gender identity. Sexual orientation is associated with the sexual attraction between one person and another. This is quite different from the internal knowledge of one's own identity. Trans people may be gay, straight, bisexual or, occasionally, asexual. Their sexual

relationships may remain the same through the transition process, or they may change. So a person who is living as a man, and is in a heterosexual relationship with a woman may, having transitioned to live as a woman, continue to be attracted to women and seek a lesbian relationship – or – may be attracted to men, and therefore seek a heterosexual relationship with a man. Sometimes trans people make lasting relationships with other trans people, so the possibilities are many and varied, and do not necessarily fit comfortably into typical categorisations of sexual behaviours. Those who remain in a long-term relationship, despite one partner having transitioned cannot be categorised by any existing terminology, since the sexual orientation of the non-trans partner does not change; the orientation of the trans partner may or may not shift, as described above. Sometimes, for clarity the terms: androphyllic (attracted to men; and gynaephyllic (attracted to women) may be used.

Trans men and trans women

The expression '*trans*' is often used synonymously with 'transgender' in its broadest sense. However, sometimes its use is specific; for instance, those born with female appearance but identifying as men may be referred to as 'trans men'; and those born with male appearance but identifying as women may be referred to as 'trans women'. The terms may also be used to imply a direction of travel, rather than a complete transformation of a person's gender status. Many trans people, having transitioned permanently, prefer to be regarded as ordinary men and women. In these cases, where it becomes essential to refer to their pre-transition status, the phrase 'woman (or man) of trans history' may be used. Recently the asterisk has become an additional symbol of inclusion of any kind of non-typical gender presentation – hence trans* person.

Transgender

'Transgender' has had different meanings over time, and in different societies. Currently, it is used as an inclusive term describing all those whose gender expression falls outside the typical gender norm. It is often the preferred term for those who change their role permanently, as well as others who, for example, cross-dress intermittently for a variety of reasons including erotic factors (also referred to as transvestism). Those who live continuously outside gender norms, sometimes with, and sometimes without, medical intervention are covered by this term. There is a growing acknowledgement that although there is a great deal of difference between say, drag artists and people who change their role permanently, there are nonetheless areas in the transgender field where the distinctions are more blurred; for example, someone who cross-dresses intermittently for some years, may later change fully to the opposite gender role.

Transition

Transition is the term used to describe the permanent change of gender role in all spheres of life: in the family, at work, in leisure pursuits and in society generally. A few people make this change overnight, but many do so gradually over a period of time, changing their presentation intermittently, and sometimes whilst undergoing early medical interventions such as hormone

therapy. A period of 12 months living full-time in the gender role that is congruent with the gender identity is required before genital surgery is undertaken.

Transsexualism

The terms '*transsexualism*' and '*transsexual*' are now considered old fashioned, and are being replaced with more acceptable terminology. These terms are applicable only to those whose gender dysphoria is experienced to a degree that medical intervention is likely to be necessary, possibly including hormone therapy and surgical procedures to change the appearance. Often these treatments are associated with a permanent transition to a gender role that accords with the gender identity, thus alleviating much or all of the discomfort. A transsexual person, is someone who 'proposes to undergo, is undergoing or has undergone gender reassignment' (Equality Act 2010). The word 'transsexual' should be used as an adjective, not a noun. It is, therefore, never appropriate to refer to an individual as 'a transsexual', or to transsexual people, as 'transsexuals'. Most people experiencing gender dysphoria prefer the general terms, 'trans' and 'transgender'; the abbreviation 'tranny' is also unacceptable.

Appendix C: Disclosure process

It is usually good practice for the employer to take responsibility for informing those who need to know, though the known wishes of the individual concerned are of paramount importance in this regard. In some circumstances the trans person may wish to disclose these matters personally to some or all of his or her contacts. If this is the case the employer will need to know when the disclosure is to take place and how much information will be disclosed in order to provide appropriate support to the members of staff involved.

Levels of disclosure may vary depending on the size of the team and the extent to which the individual proposing to change gender role has face to face contact with co-workers. It may be helpful to develop a stakeholders list:

- Who are all the people in the Trust you may need to engage at some point during the transition?
- When do they need to be engaged?
- Are there any specific issues that need to be addressed sooner rather than later?
- Would a timeline with milestones help?
- Block out dates such as legal name change, transition milestones and other events.
- Review the stakeholder list and develop the program to allow time for education.

Things to consider:

- How would you like your colleagues to find out about your transition? (e.g. A letter, a face-to-face meeting, individual discussions, your supervisor explaining)
- Will you need workspace changes to be made during the transition?
- How long do certain HR functions take? (E.g. legal name changes on ESR, staff directories, IT user accounts etc.)
- Will it be necessary to inform service users or external colleagues?
- When will you need to process any necessary changes to professional licenses?
- Be prepared and expect the unexpected. Discuss potential challenges and adjust plans accordingly e.g.

- List all the things that a new employee must do during the first week of employment during the new gender role - getting a security badge photo, DBS forms, insurance paperwork, etc. How long do these normally take?
- Do a search for your current name on the intranet, for team rosters and other references. How many of these pages will need to be altered or removed?

The following example of a process and e-mail communication involves a trans woman, but exactly the same approach could be used for a trans man, with the pronouns and names reversed:

Phase one: a trans woman has a private interview with a senior manager or line manager;

Phase two: the senior manager (or other manager) calls a meeting of those colleagues who work closely with the trans person, and explains the situation and provides basic information; the trans woman joins the group for lunch and makes it clear that she is happy to talk about it and welcomes any questions;

Phase three: an e-mail written by the trans person is sent out to all other employees in the same building, perhaps along the following lines.

Sample E-mail or letter to colleagues (© GIRES):

Dear Colleagues,

I am writing to you because I know that it wouldn't be possible to speak to you all individually. I wanted to tell you my news personally, rather than leaving you to hear it via someone else. There are going to be some big changes in my life that I would like to share with you.

I have been seeing a specialist doctor for a while, who confirms what I have recognised for many years. I identify as a woman, and I always have. Because I don't look like a woman, I have lived with a feeling of great discomfort, which I have tried to ignore, repress or overcome. This uncomfortable experience is called gender dysphoria. Most of you will have heard of people in my situation being described as transgender, or just trans.

I have reached the point where I cannot continue in my current gender role. I shall be away for three weeks and will return in September. From then on I will be living and working as a woman. I am still the same person, and I shall continue to do the same job. In that respect nothing will change. My appearance and the way I dress will change, of course, and I will no longer be known as Michael but as Susan. Pronouns are tricky, but I am sure I can count on you all to refer to me as 'she'.

We have great values in our organisation; we celebrate diversity and we treat each other as equals, so I am confident that all of you will give me the support that I need through this rather difficult phase of my life.

Please feel free to come and ask me about anything that you don't understand, or would like to know. I don't mind answering questions, and if you have uncertainties, I would much rather you spoke to me directly about them.

Regards,

Appendix D: Applications for employment by trans people

HR must ensure that a person who is perceived to be or is gender variant, is given fair and equal consideration when applying for a post in the Trust.

Example situations are given below.

Case 1: Applicant has a GRC (and will normally, but not always, have a birth certificate aligning with the gender of presentation if the birth was originally registered in the UK): The applicant has no obligation to declare gender history. It is only relevant in the context of medical history. Medical history is always confidential.

If a person working for the Trust learns that a candidate has, or has applied for, a GRC and subsequently deliberately passes this information on to a third party, then they have committed a criminal offence and this should be reported to the police who are expected to pursue a hearing by the Magistrates Court, and a possible conviction. On conviction, the maximum fine is 5,000 pounds.

Case 2: Applicant has transitioned to the opposite gender role permanently but does not have a GRC: A GRC must not be requested; Birth certificates are not identity documents and should not be requested. Alternative documentation that can be offered includes Passports and Driving Licences. However, in the context of employment, the applicant is covered by the protected characteristic of gender reassignment and must receive equal treatment.

There will be occasions when a person who has transitioned does not intend to obtain a GRC. There are many married transitioned people who would otherwise qualify for a GRC if they were prepared to convert their marriages to single sex marriages or annul their marriages, or divorce. This must not be a reason to deny employment.

Case 3: A person declares pre-employment that he/she intends to undergo gender reassignment: Again, such a person falls under the protected characteristic of gender reassignment. That person will be expected to present in the gender role that accords with the sex assigned at birth until such time as the person wishes to undergo transition.

In all three cases, their gender identity cannot be used as a negative factor in assessing their suitability for employment.

Appendix E: Criminal law protecting GRC applicants/gender history

Section 22 of the Gender Recognition Act 2004 holds that:

“It is an offence for a person who has acquired protected information in an official capacity to disclose the information to any other person.”

Protected information: This means information which relates to a person who has made an application under the Gender Recognition Act. This covers both the fact of the application itself and, if the application was successful, the fact that the individual was previously of the opposite gender role to the one in which they are now legally recognised.

Official capacity: A person acquires information in an 'official capacity' if they are acting:

In connection with their functions as a member of the civil service, a constable or the holder of any other public office or in connection with the functions of a local or public authority or of a voluntary organisation,

As an employer, or prospective employer, of the person to whom the information relates or - as a person employed by such an employer or prospective employer, or

In the course of, or otherwise in connection with, the conduct of business or the supply of professional services.

It is **not** an offence to disclose when:

The information does not enable the person to be identified, or

That person has agreed to the disclosure of the information, or

The person making the disclosure genuinely does not know or believe that a full gender recognition certificate has been issued, or

The disclosure is in accordance with an order of a court or tribunal, or

The disclosure is for the purpose of instituting proceedings before a court or tribunal, or

The disclosure is for the purpose of preventing or investigating crime, or

The disclosure is made to the Registrar General for England and Wales, the Registrar General for Scotland or the Registrar General for Northern Ireland, or

The disclosure is made for the purposes of the social security system or a pension scheme, or

The disclosure is in accordance with provisions made through regulations which the Secretary of State is permitted to make under the Act.

Non applicability of Section 22: The law does not apply to information about a person's gender recognition application or gender reassignment history when the information originates outside of an official setting – through social contact, for instance.

What the law means: Managers who know of the employee's gender history must only use such information when consent has been given.

People in authority may not have been trained to understand this aspect of the law. However, ignorance is not a defence in these matters. It is what is called a 'strict liability' offence, for which there are no mitigating reasons other than the exceptions listed.

The law does not just apply to word of mouth disclosure. Paperwork and computer records are significant too. Therefore, staff must be careful about what they record and file about protected individuals (or what was recorded and filed in the past) so as to avoid others from seeing information which becomes protected as a result of an application for gender recognition or subsequent legal recognition.

Purpose of the law: This is to recognise that there are legitimate times when people do need to know about a trans person's gender reassignment in order to do the best and right thing. The law is not there to enforce absolute secrecy but to remind officials that they have a serious responsibility for the potentially negative outcomes of using information irresponsibly.

In other words, the law is there to assure transitioned people that when they do share this information it will not be revealed to anyone who doesn't need to know.

Gender variant people not covered by Section 22: Only those that have made application for a GRC are covered by Section 22. However, the Data Protection Act 1998, The Human Rights Act 1998, and the Equality Act 2010, all require that privacy, confidentiality, dignity and respect, is accorded to trans people generally. Clearly, it would be inappropriate and unprofessional to disclose information relating to the gender variant behaviour of other individuals (e.g. the person is known to be a cross dresser) and could be considered a form of harassment if such disclosure was made.

It is good practice in all circumstance, in relation to all trans people, to regard all personal information relating to their gender status, as private.

Medical treatment in relation to Section 22 disclosure (extract):

Disclosure for medical purposes

5.—(1) It is not an offence under section 22 of the Act to disclose protected information if—

- (a) the disclosure is made to a health professional;
- (b) the disclosure is made for medical purposes; and
- (c) the person making the disclosure reasonably believes that the subject has given consent to the disclosure or cannot give such consent.

(2) “Medical purposes” includes the purposes of preventative medicine, medical diagnosis and the provision of care and treatment. (*See additional note below.)

(3) “Health professional” means any of the following—

- (a) a registered medical practitioner;
- (b) a registered dentist within the meaning of section 53(1) of the Dentists Act 1984(a);
- (c) a registered pharmaceutical chemist within the meaning of section 24(1) of the Pharmacy Act 1954(b) or a registered person within the meaning of article 2(2) of the Pharmacy (Northern Ireland) Order 1976(c);
- (d) a registered nurse;
- (e) a person who is registered under the Health Professions Order 2001(d) as a paramedic or operating department practitioner;
- (f) a person working lawfully in a trainee capacity in any of the professions specified in this paragraph.

Note: Although disclosure for ‘medical reasons’ is permitted (point 2 above), medical staff must be careful only to disclose where such information is relevant to the particular treatment required. Medical treatment is not always a sufficient reason for disclosure. This should only happen if it is strictly relevant to the particular procedures that the person will undergo. Various injuries may be treated in A&E without the need for staff to know.

Equality Analysis Record

<p>1. Trust policies and procedures should support the requirements of the Equality Duty within the Equality Act:</p>	<ul style="list-style-type: none"> • Eliminate discrimination, harassment and victimisation; • Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; • Foster good relations between persons who share a relevant protected characteristic and persons who do not share it. 	<p>When designing the processes in your document, have you taken care to support the requirements of the Equality Act?</p> <p>Yes</p>
<p>2. When considering whether the processes outlined in your document may adversely impact on anyone, is there any existing research or information that you have taken into account?</p>	<p>For example:</p> <ul style="list-style-type: none"> • Local or national research • National health data • Local demographics • SECamb race equality data • Work undertaken for previous EAs 	<p>If so, please give details: The following legislation, regulations and codes were taken into account:</p> <ul style="list-style-type: none"> • Equality Act (2010) • Employment Rights Act 1996 • Health and Safety at Work Act 1974 • Management of Health and Safety at Work Regulations 1992 • Protection from Harassment Act 1997 • Criminal Justice and Public Order Act 1994 • Article 3 of the Human Rights Act of 1998 • Malicious Communications Act 1998 • Bullying and Harassment at Work (Advisory, Conciliation and Arbitration Service, April 2009) <p>Advice, including legal advice, has been provided by the Gender Identity Education & Research Society (GIRES) in relation to transgender people (Gender reassignment). Other advice included insurance, finance and pensions aspects.</p>

		In addition, a trans member of the Inclusion Hub Advisory Group worked with a sub-group of the Inclusion Working Group to develop this document.
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3. Do the processes described have an impact on anyone's human rights?	If so, please describe how (positive/negative etc): Positive impact
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4. What are the outcomes of the EA in relation to people with protected characteristics?			
Protected characteristic	Impact Positive/Neutral/ Negative	Protected characteristic	Impact Positive/Neutral/ Negative
Age	Neutral	Race	Neutral
Disability	Neutral	Religion or belief	Neutral
Gender reassignment	Positive: This procedure supports the rights of all people within this group	Sex	Neutral
Marriage and civil partnership	Positive: This procedure supports the rights of all people within this group	Sexual orientation	Neutral
Pregnancy and maternity	Positive: This procedure supports the rights of all people within this group	Date the EA was undertaken: 23/05/2017	

5. Mitigating negative impacts:
If any negative impacts have been identified, an Equality Analysis Action Plan must be completed and attached to the EA Record. A template for the action plan is available in the Equality Analysis Guidance on the Trust's website. Please contact inclusion@secamb.nhs.uk for support and guidance.

Document Control

Manager Responsible

Job Title:	Inclusion & Wellbeing Manager
Directorate:	Human Resources

Committee/Working Group to approve	SMT	
Version No. 1.04	Final	Date: 11.08.17

Draft/Evaluation/Approval (Insert stage of process)

Person/Committee	Comments	Version	Date
SMT	Virtual (email) circulation, comments and approval	V1.04	11/08/2017
SMT	Review and request for approval	V1.,04	08/08/2017
Inclusion & Wellbeing Coordinator	Incorporation of revisions and comments	V1.03	06/06/2017
Joint Partnership	Review and comment	V1.02	01/06/2017
IHAG Subgroup	Review and comment	V1.01	23/05/2017
Stonewall	Review and comment	V1.00	21/05/2017
Inclusion Working Group	Approved	V1.00	23/04/2014
Inclusion Manager (with EDS support)	Revised to incorporate feedback	V0.09	04/04/2014
EA Reference Group	Review and comment	V0.08	20/03/2014
IHAG	Review and comment	V0.08	20/03/2014
Inclusion Working Group, Foundation Council, JPF	Review and comment	V0.08	20/03/2014
Inclusion Manager / EDS Support	Revision of previous version to remove policy elements.	V0.08	11/03/2014
Sub group comprising staff and representation from Gender Identity Research and Education Society	Revision of version V0.6 following issued by HR on 3/03/14	V0.07	10/03/2014
Inclusion Working Group	Review of draft document following change from Procedure to Procedure.	V0.06	03/03/2014
Inclusion Manager (with EDS support)	Incorporation of recommendations made on 28/03/2013	V0.05	03/04/2013
Inclusion Manager, Service Developments Programme Manager, EDS Support	Review of amended draft for comment	V0.04	27/03/2013

Inclusion manager (with EDS support)	Review of proposed amendments and restructuring to fit with approved Trust Procedure format and objectives	V0.04	05/03/2013 to 07/03/2013
Inclusion Manager	Incorporation of external review comments into new draft document	V0.03	05/03/2013
Gender Identity Research and Education Society	For external review	V0.02	24/02/2013
Gender Identity Research and Education Society	For review, comment and contribution.		January 2013
Inclusion Working Group, Staff networks, Inclusion Hub Advisory Group, Joint Partnership Forum and the Gender Identity Research and Education Society	For discussion and consultation and external review	V0.01	January 2013
Sub group comprising staff and representation from Gender Identity Research and Education Society	Planning and working meeting	V0.01	Dec 2012
Inclusion Working Group and representation from Gender Identity Research and Education Society	Discussion and consultation to inform development process – set up sub group to take forward	V0.01	Nov 2012

Circulation

Records Management Database	Date: 14.08.17
Internal Stakeholders	
External Stakeholders	
Active from (30 days after above signature):	Date: 14.08.17

Review Due

Manager	Inclusion and Wellbeing Manager	
Period	Every three years or sooner if new legislation, codes of practice or national standards are introduced	Date: 11.08.20

Record Information

Security Access/Sensitivity	Public Doman
Publication Scheme	Yes
Where Held	Records Management database; Internet / Intranet
Disposal Method and date:	In accordance with Records Management and Retention & Disposal Procedure

Supports Standard(s)/KLOE

Procedure and guidance for supporting transgender staff and service users

	Care Quality Commission (CQC)	IG Toolkit	Other
Criteria/KLOE:			EHRC