



Procedure for Supporting Transgender Employees and Service Users

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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 employees (including contractors, students, apprentices) and volunteers, are upheld at all times by all Trust employees, and its volunteers.
- 1.2. In order to understand the scope of this procedure and enable its implementation familiarisation with the terminology provided in Supporting Transgender employees and service user's guidance document. Context Information is essential.
- 1.3. This procedure is underpinned by the Trust's policy on diversity and inclusion to ensure that trans people in our care will be treated without fear of prejudice, discrimination or harassment. Employees, and volunteers 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 is likely to be discriminatory and is 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). 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 employees, and volunteers identifies the need for a safe working environment free from discrimination and harassment.



- 1.7. The supporting document which accompanies this procedure contains guidance on caring for a trans person who is a patient and for call takers when taking calls from trans people.
- 1.8. From an employee 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, employees 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 employees assigned in 2.4 above to implement this procedure across the Trust. Further support may also be sought via the Pride in SECAMB staff equality network.
- 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 employees and to managers supporting implementation of 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 employee's 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 employees to support the acquisition of DBS checks.
- 2.9. **Employees 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 employees' questions relating to the gender identity of an of employee sensitively, promptly and confidentially within the guidelines of this procedure.



- 2.10.3. Give support (or ensure that it is given by others) to employee if required.
- 2.10.4. Adhere to this procedure following disclosure.



- 2.11. **All employee:**
- 2.11.1. Have personal responsibility for ensuring that their own behaviour complies with the standards set out in the procedure. Employees and volunteers should disclose any concerns regarding their treatment or that of trans people to their line manager, the Inclusion Team 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 **Inclusion Team**, the Trust provides for confidential support and advice to an employee who is transitioning or is involved in a claim of bullying and harassment. Further support may be sought via the Pride in SECAmb staff equality network.
- 2.13. It is the responsibility of the IWG to consider the needs of non-binary employees and services users, so policies and procedures can be developed appropriately.

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.
- 3.3. It is important to be aware that relationships may have changed due to a person's transition and whilst relatives can sometimes help, there may be instances where they do not approve or recognise a person's change of gender status and may therefore give misleading information. Employees and volunteers must always be sensitive to the individual's wishes in these circumstances.



3.4. Definitions

- 3.4.1. **Transgender:** Someone whose gender identity or behaviour is different from those typically associated with their assigned sex at birth.
- 3.4.2. **Transgender Male:** person transitioning to become male.
- 3.4.3. **Transgender Female:** person transitioning to become female.
- 3.4.4. **Transsexual:** An older term for someone who is proposing to undergo or has undergone gender reassignment.
- 3.4.5. **Cross-Dresser:** Someone who enjoys wearing clothes associated with the opposite sex for personal comfort and pleasure. This replaces the term 'transvestite'.
- 3.4.6. **Intersex:** People born with a physical sex anatomy that doesn't fit the 'typical definition' for a male or female body.
- 3.4.7. **Gender Expression:** How a person represents or expresses their identity to others.
- 3.4.8. **Non-Binary:** Someone who does not identify as exclusively male or female. Examples include people who are gender neutral, gender fluid, pangender, polygender or bi-gender.
- 3.4.9. **Transition:** The time when a person begins to live as the gender with which they identify rather than the gender they were assigned at birth.
- 3.4.10. **Gender Reassignment Surgery:** Surgical procedures that change someone's body to better reflect a person's gender identity.
- 3.4.11. **Gender Recognition Certificate:** A Gender Recognition Certificate (GRC) legally recognises a person's acquired gender
- 3.4.12. **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.
- 3.4.13. Further terminology used in the field of Transgender is provided in Guidance for Supporting Trans Employees and Service Users. (Section B), courtesy of GIRES.

3.5. Guidance for call takers when taking calls from Transgender (Trans) People

- 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.

Please refer to the **Guidance for call takers when taking calls from Transgender (Trans) People** in the supporting document.

3.6. Handover

- 3.6.1. 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 they are unable to consent.
- 3.6.2. Employees 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.

3.7. Concerns and complaints

- 3.7.1. Complaints about discrimination or harassment on the basis of gender identity are taken very seriously within the Trust, and will result in a full investigation.
- 3.7.2. 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, a trans person who is congruent with their

⁻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/> Furthermore, individuals may render themselves liable to prosecution under the Protection from Harassment Act, (1997).



gender identity is specifically protected by the Equality Act 2010. Humiliating or degrading treatment could breach Article 3 Human Rights Act 1998.

3.8. **Part 1 – Supporting trans Employees**

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

3.8.2. 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 within the supporting Guidance for Supporting Trans Employees and Service Users. 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.

3.11. Positive action is a range of measures allowed under the Equality Act 2010 which can be taken to encourage and train people from under-represented groups to help them overcome disadvantages in competing with other applicants. Positive action can be used to encourage particular groups to apply, or to help people with particular protected characteristics to perform to the best of their ability. In circumstances where the candidates are "as qualified as" each other, two applicants could be equally appointable following interview with the same qualifications and experience, and under the Equality Act it would be appropriate to select the individual from the minority group in order to enhance diversity within that team.

3.12. For guidance purposes, case scenarios for the Trust’s recruitment and selection team are provided within the Supporting guidance document (Section F): Applications for recruitment by trans people.

3.12.1. **Interviewing and selection**

3.12.2. 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.

3.12.3. 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.

- 3.12.4. 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. Some documentation may be presented in their previous name and should be accepted alongside legal proof of name change.
- 3.12.5. The Trust treats gender identity 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 within the supporting guidance document in Section B- Terminology; Section F – Applications for employment of trans people; and Section G – Criminal Law protecting GRC applicants / gender history.
- 3.12.6. 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. Virtual or telephone interviews also present challenges and increase stress and anxiety for trans people due to an increased likelihood of misgendering. In this respect, people involved in the selection process will receive diversity and inclusion training that is relevant to recruitment and selection. Every effort will be made by the Trust to put all candidates at ease and provide an inclusive selection process.
- 3.13. **Disclosure and Barring Service (DBS) Checks**
- 3.13.1. 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 employees.
- 3.13.2. 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.
- 3.13.3. 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@dbi.gsi.gov.uk

- 3.13.3.1. 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.
- 3.13.3.2. Additional information and guidance on the Disclosure process is provided in the supporting guidance.
- 3.13.3.3. If the offence itself is not sufficiently serious to preclude employment, reassurances should be given to the applicant / employee.

3.14. **Bullying and Harassment**

- 3.14.1. 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.
- 3.14.2. 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 these incidents will be dealt with under the bullying and harassment policy.

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

- 3.15.1. As noted in 3.7.1, 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 3.7.1, 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.



- 3.15.2. 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.
- 3.15.3. 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.
- 3.16. **Supporting employees who elect to undergo medical and / or surgical treatment related to gender reassignment**
- 3.17. **Time off work**
- 3.17.1. 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.
- 3.17.2. 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.
- 3.17.3. 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.
- 3.17.4. The normal policy for medical appointments will apply and employees and managers should refer to the Managing Health and Attendance Policy. 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).
- 3.17.5. The Trust will not count absences related to the gender reassignment process in stages for absence management. However, all other sickness absence will be recorded and managed in accordance with the Managing Health and Attendance Policy
- 3.17.6. 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.



3.18. Long term sickness

3.18.1. 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 by their Manager and HR. Further support will be provided by Inclusion Team, Occupational Health and Wellbeing Hub as appropriate. Instances of long-term sickness absence will be managed sensitively.

3.18.2. 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.

3.19. Supporting employees through the transition process

3.20. Agreeing a process

3.20.1. 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.

3.20.2. 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.

3.20.3. 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.

3.20.4. 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; Inclusion Team, Pride in SECamb network and Wellbeing issues; capability issues; pensions
- Name change; updating records and systems; confidentiality.



- Counselling, support, dealing with any harassment; appoint a mentor if needed;
- Any media handling required.

3.20.5. **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.

3.20.6. **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, further advice should be sought via the Inclusion Team and / Pride in SECamb network who will be able to assist in identifying potential providers of the training. If time does not permit training to occur before transition of the individual, then, at the very least, e-learning should be accessed.

(see <https://ambulancelgbt.org/resources/professional-development/the-ambulance-service-trans-toolkit/>)

or

<https://www.gires.org.uk/e-learning/transgender-awareness-for-employers-service-providers/>)

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

3.20.8. **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 trusted colleague, which may include HR representative, Pride network member 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 behaviour.

3.20.9. Some prefer not to tell others, but to leave this entirely to one of these colleagues or the line manager. There is an example of an email that could go out to the wider group of employees within the supporting guidance



document. 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.

- 3.20.10. **HR and Occupational Health (if relevant):** Matters such as Pensions and Insurance must be discussed with HR (see 3.22). Where managers or the individual are not assured of the physical capabilities, Occupational Health advice should be sought, for the person to do jobs that may, for instance, involve heavy lifting.
- 3.20.11. **Uniforms** (if not gender neutral) where applicable, should be discussed and arranged in advance of transition.
- 3.20.12. **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.
- 3.20.13. **National Insurance:** A trans person without a GRC below the retirement age will pay employee national insurance contributions.
- 3.20.14. 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.
- 3.20.15. 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.
- 3.20.16. Any implications associated with insurance and pensions (and these may be very significant) must be established.
- 3.20.17. **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 employees.

- 3.20.18. Changes to email and employees ID cards can be facilitated ahead of a legal name change in conjunction with the line manager. Additionally, a change in social title (*Mr, Mrs, Miss, Ms, or Mx*) can also be facilitated ahead of a legal name change and can be completed on submission of a staff change form.

The HR Service Centre should be made aware of any staff members whose legal name does not match that which they present as.

All formal documentation (i.e. contracts, references etc) will continue to use the name as given on ESR until there is a legal name change.

For Registrant colleagues: if the employee intends to practice under a different name to the one on the regulatory body register e.g. HCPC/RCN, there is a risk from a regulatory perspective for the employee from the regulatory authority. Employees are advised to contact the appropriate regulatory body to discuss any potential delay between their changing their name informally and submitting the appropriate legal documentation for a full change of name to be processed.

- 3.20.19. **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 they are 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 supporting Guidance for Supporting Trans Employees and Service Users (Section B- Terminology; Section F – Applications for employment of trans people; and Section G – Criminal Law protecting GRC applicants / gender history.).
- 3.20.20. It is the responsibility of the HR team to ensure continuation of service entitlements are not affected by the name change.
- 3.20.21. **Toilets and other facilities:** The individual can use the facilities congruent to their gender identity.



- 3.20.22. Where required 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.
- 3.20.23. 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 employees 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 an employee 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.
- 3.20.24. **Redeployment:** 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.
- 3.21. **Counselling and support; dealing with harassment:**
- 3.21.1. 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.
- 3.21.2. 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.



3.22. **Keeping records**

- 3.22.1. 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.
- 3.22.2. 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.
- 3.22.3. 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.
- 3.22.4. 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.
- 3.22.5. Trans people in employment may choose voluntarily to disclose information at a secondary level, for example, answering an diversity 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.

3.23. **Pensions**

3.23.1. **Entitlement to state pension**

- 3.23.2. For state pension purposes a trans person will be treated according to their affirmed gender.
- 3.23.3. 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, National Ambulance LGBT Network, the Trust LGBT Network, Pride in SECamb and employees 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 References

- 6.1. Codes of Conduct (NHS) which set out acceptable behaviour at work
- 6.2. The following legislation and national guidance are relevant to this Procedure:
 - 6.2.1. Equality Act (2010)
 - 6.2.2. Gender Recognition Act (2004)
 - 6.2.3. Employment Rights Act 1996
 - 6.2.4. Health and Safety at Work Act 1974
 - 6.2.5. Management of Health and Safety at Work Regulations 1992
 - 6.2.6. Disability Discrimination Act of 1995
 - 6.2.7. Sex Discrimination Act



- 6.2.8. Race Relations Act
- 6.2.9. Protection from Harassment Act 1997
- 6.2.10. Criminal Justice and Public Order Act 1994
- 6.2.11. Article 3 of the Human Rights Act of 1998
- 6.2.12. Malicious Communications Act 1998
- 6.2.13. Bullying and Harassment at Work (Advisory, Conciliation and Arbitration Service, April 2009)
- 6.3. **Useful links to further information:**
 - 6.3.1. The Gender Identity Research and Education Society www.gires.org.uk
 - 6.3.2. National Ambulance LGBT Network <https://www.ambulancelgbt.org/>
 - 6.3.3. Human Rights Campaign www.hrc.org/workplace/transgender
 - 6.3.4. Gender PAC www.genderpac.org
 - 6.3.5. World Professional Association for Transgender Health: www.wpath.org
- 6.4. **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 employee 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.