



## Supporting Employees with Gender Reassignment Policy

<b>Date Published</b>	<b>April 2020</b>
<b>Version</b>	<b>1</b>
<b>Last Approved Date</b>	<b>April 2024</b>
<b>Review Cycle</b>	<b>Triennial</b>
<b>Review Date</b>	<b>April 2027</b>

“Learning together, to be the best we can be”

# 1. Introduction

- 1.1. The purpose of this policy is to explain the support that the Trust will give to employees who are undergoing, or have undergone, gender reassignment.

# 2. The law

- 2.1. Discrimination on the grounds of gender reassignment is unlawful under the Equality Act 2010. It is unlawful to discriminate against those who are undergoing gender reassignment, or have completed gender reassignment. The Act also protects those who have undergone or are undergoing gender reassignment from harassment. The individual does not have to be under medical supervision to be covered by the Act.
- 2.2. The Gender Recognition Act 2004 sets out the process of changing gender.
- 2.3. If a transsexual person undergoes gender reassignment and is not married (or is married and the spouse consents to the marriage continuing), they will get a full gender recognition certificate (GRC). If their birth was registered in the UK, they will automatically be entered on the Gender Recognition Register held by the Registrar General. Their original birth register entry will be marked, confidentially, to indicate that they have become recognised in their acquired gender. If their birth has been registered in the UK they will receive a new birth certificate in their acquired name and gender.
- 2.4. An interim GRC may be issued if the individual is married and the spouse does not consent to the marriage continuing.

# 3. Definition

- 3.1. Gender reassignment is the changing from one gender to another. Individuals who decide to undergo gender reassignment are typically required to live and dress as the opposite gender for a period of time before undergoing any surgery. During this time, they are likely to receive some hormonal treatment which will start to change their appearance. Individuals are typically provided with counselling during this time. Not all individuals opt for surgical treatment. If they do, it will typically happen one to two years after the process begins.

3.2. It must be noted that whilst the process of gender reassignment is in many ways a relief to the individual concerned, it is also a traumatic period.

3.3. It should also be noted that transvestism is a separate situation – this is where individuals wear clothing which is generally deemed as culturally appropriate to the opposite gender. This is not covered by this policy.

## 4. Discriminatory action

4.1. Making a decision relating to employment on the basis of gender reassignment is unlawful. For example, making a decision to recruit, to promote, to train, to reward or to dismiss will all be unlawful if based on gender reassignment.

4.2. It is also unlawful to discriminate on the perception that someone has or is undergoing gender reassignment, or because someone associates with an individual who is transgender.

4.3. Applicants to the Trust are not expected to disclose their gender reassignment, and should not be asked any questions relating to this during the selection process.

## 5. Occupational requirements

5.1. There are a limited range of situations in which an applicant should make the employer aware of their gender reassignment. These are:

- where the nature of the work is such that it should be carried out by a member of one gender
- where the job involves personal searches
- where the job involves close intimate care with individuals of a particular gender.

## 6. Harassment

6.1. Harassment is defined as “unwanted conduct related to gender reassignment which takes place with the purpose or effect of violating the dignity of a person or creating an intimidating, hostile, degrading, humiliating or offensive environment.”

- 6.2. Harassment of any individual who has undergone or is undergoing gender reassignment will not be tolerated by the Trust. This includes harassment of employees, customers, suppliers or any other individuals that come into contact with the Trust.
- 6.3. Harassment from a third party will also not be tolerated.
- 6.4. It should be noted that harassment is any conduct which violates the dignity of a person. Therefore, no jokes or banter should take place in relation to gender reassignment – as this is likely to have the potential of violating the dignity of a person. The Trust has a Dignity at Work Policy that should be referred to in all such instances.

## 7. Action to be taken if harassment does occur

- 7.1. Harassment is considered to be misconduct by the Trust. Any employee who is proven to have harassed an individual who has undergone or is undergoing gender reassignment will, therefore, be committing an act of misconduct.
- 7.2. Instances of any conduct investigation will be dealt with under the disciplinary policy.
- 7.3. If an individual alleges that harassment has occurred, the Trust will respond to this in line with the Trust's Dignity at Work Policy.

## 8. Action to be taken if an employee announces that he or she is to commence gender reassignment

- 8.1. If an employee announces that they are to commence gender reassignment, the employee must be asked how they wish this information to be communicated to colleagues, customers and suppliers. An appropriate means of communication will be agreed between the line manager and the employee. No communication will take place without the consent of the employee.

8.2. Although the confidentiality of the employee will be respected, it is noted that the reassignment will soon become apparent and it is important that communication is appropriate, timely and effective.

8.3. It should be noted that if an employee joins the Trust having previously completed gender reassignment this is a private matter and there should not be any communication in relation to this.

## 9. The use of toilet facilities and changing rooms

9.1. It is appreciated that some employees might feel uncomfortable in sharing toilet facilities and changing rooms in the early stages of a colleague's gender reassignment. If this is an issue, wherever possible the employee undergoing gender reassignment will be asked to use a gender neutral toilet facility/changing room on a short term basis. However, employees will be made aware that this is a temporary measure and the employee will eventually use the facilities of the new gender.

## 10. Concerns from employees

10.1. It is accepted that some employees might find it difficult to understand the gender reassignment of their colleague. However, employees must realise that they are expected to be supportive of their colleague. If employees have any concerns or questions these should be addressed to the line manager, or the Trust's HR Team.

10.2. It is also accepted that the religious beliefs of some employees might make it difficult to accept the gender reassignment of a colleague. The Trust is committed to being supportive of employees of different religions, as well as being supportive of employees undergoing gender reassignment. Any concerns or difficulties should be addressed to the line manager, and it is hoped that these can be resolved effectively.

## 11. Time off for treatment

- 11.1. An employee undergoing gender reassignment will require time off for medical treatment and for counselling. Any time off required will be treated in accordance with the sickness absence policy.

## 12. Employee records

- 12.1. When an employee has completed the gender reassignment process they should inform the Trust's HR Team who will alter the personnel records accordingly.

## 13. Media interest

- 13.1. On some occasions, there might be interest from the media in an individual who has undergone gender reassignment. No employees are to discuss the gender reassignment of any colleague with the media. Any enquiries should be directed to the central Trust team.