

This policy is under review in light of the Supreme Court judgement in *For Women Scotland Ltd v The Scottish Ministers*.

Transitioning at Work Policy

1. OVERVIEW AND PURPOSE

- 1.1 This policy sets out the University's commitment towards staff who wish to transition¹ whilst employed by the University. It is recognised that work-life is a major part of an individual's transition and to have a working environment where an individual feels valued and supported is essential. The University is committed to ensuring equality of opportunity for trans and non-binary staff and to supporting members of staff who are transitioning.
- 1.2 The University undertakes to ensure non-binary and trans staff members work in a supportive environment and we have a zero-tolerance approach to prejudice, discrimination and harassment on the grounds of gender identity or expression.
- 1.3 The policy aims to set out clear guidance for staff on the processes for transitioning at work and the responsibilities of various staff involved, in order to ensure that staff are fully supported during their transition. At all times the University will be sensitive to the needs of the staff member during their transition in the workplace and will be guided by input of the member of staff.
- 1.4 This policy's main focus is on transitioning at work and it is up to staff members, including non-binary staff, to decide which section is applicable to them to implement changes and managing aspects of their transition in the work place such as name and pronoun changes, and possible medical procedures.
- 1.5 The University values the diversity of our workforce and believe that we will benefit from employing trans people at all levels of responsibility.

2. SCOPE

- 2.1 This policy shall apply to all staff directly employed by the University. Separate elements of this policy, such as leave entitlement, will apply differently to casual members of staff due to the terms and conditions of their employment. The policy does not apply to staff employed by the University's partners (those staff members are the responsibility of their substantive employer), or other individuals engaged to undertake activities within the University, for instance, contractors and agency workers. However, where the University is aware that a worker employed by a partner organisation is transitioning, it will liaise with the partner organisation and the worker to ensure that appropriate support is provided in accordance with the principles outlined in this policy.

3. RESPONSIBILITIES

¹ Where this document uses the terms 'trans' it refers to the definition outlined in section 4.1.1 of this policy.

3.1 Staff Member

3.1.1 We respect the right of individuals to choose whether to be open about their trans and non-binary status or not. If a staff member decides to disclose their intention to transition, we will support them fully and respect that they will be in control of their transition and how it will be implemented in consultation with their line manager. For further details about consulting with a line manager please see the *Transitioning at Work: guidance for staff and managers*. Disclosure of intent to transition is entirely at the discretion of the staff member and any discussions should be treated confidentially. It is for the staff member to decide if they wish to create a transition plan and if so, to lead their own plan in consultation with their line manager.

3.2 The University Executive Group (UEG)

3.2.1 The University Executive Group is accountable to Council for ensuring university wide compliance with this policy.

3.3 Heads of Schools and Directors of Professional Services Directorates (University Leadership Team, ULT)

3.3.1 Heads of School and Professional Services Directors are responsible to UEG for ensuring policy implementation in their School/Directorates.

3.3 Line Managers

3.3.1 Managers are responsible for ensuring policy implementation and compliance in their area(s).

3.4 Human Resources

3.4.1 Human Resources staff will provide assistance and support as may be requested by the staff member. Wherever possible, they will be assigned a single point of contact in HR to support them through their transition.

3.5 All Staff

3.5.1 All staff are responsible for complying with this policy.

4. POLICY

4.1 Definitions

4.1.1 Where this policy uses the term 'trans', it refers to an umbrella term to describe people whose gender is not the same as, or does not sit comfortably with, the sex



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they were assigned at birth. Trans people may describe themselves using one or more of a wide variety of terms including (but not limited to) transgender, transsexual, gender-queer (GQ), gender-fluid, non-binary, gender-variant, crossdresser, genderless, agender, nongender, third gender, bi-gender, trans man, trans woman, trans masculine, trans feminine and neutrois.

4.2 General Principles

- 4.2.1 'Transitioning' is a term used to describe the processes and steps an individual takes in order to live in the gender they identify as. Transitioning is different for each person. For some, it involves medical intervention and for others it does not. Transitioning also might involve things such as telling friends and family, dressing differently and changing official documents.
- 4.2.2 Regardless of how an individual transitions, the University expects all staff to treat their colleagues and visitors with [dignity and respect](#), in a way which reflects and is appropriate to, the gender that person identifies with.
- 4.2.4 We will at no time discriminate against people on the grounds of their gender identity or gender expression. We will treat all staff members with respect and seek to provide a positive working environment free from discrimination, harassment or victimisation.
- 4.2.5 Individuals should at all times be addressed with their correct title, pronouns and name. Failure to do so may breach the University's [Dignity and Respect policy](#) that details disciplinary and reporting process and provides examples of discrimination and what is considered appropriate and inappropriate behaviours by staff.
- 4.2.6 In addition to this policy staff should also consult the *Transitioning at Work: guidance for staff and managers* for more detailed guidance.

4.3 Gender Recognition Certificate

- 4.3.1 A Gender Recognition Certificate (GRC) enables trans people to be legally recognised in their affirmed gender and to be issued with a new birth certificate. Not all trans people will apply for a GRC. You do not need a GRC to change some of your gender markers at work.²
- 4.2.3 Non-binary gender identities have no legal recognition and so they cannot get a GRC in their affirmed gender. However, not having a GRC must not be used to disadvantage a trans or non-binary person. You would only ever see/ask to see a birth certificate as a potential form of ID, never a GRC. Asking to see a GRC is not acceptable and may be regarded as harassment.

² For further details see the *Transitioning at Work: Guidance for Staff and Managers*, p.4, sections 1.1.1 and 1.1.2.



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- 4.3.4 A GRC is not needed in order to change a name, pronouns, or the way a person dresses at work.

4.4 **Records and Data Protection**

- 4.4.1 Provision should be made for amending any documentation or records that could reveal a previous name, title, gender marker, or other identification.
- 4.4.2 Access to any documentation that it is necessary for the University to continue to hold, but which refers to the individual's trans status, previous details and trans history is restricted to protect privacy and confidentiality.
- 4.4.3 All IT records of the staff members' personal records must be secured in line with the Data Protection Act; including password protected and will be kept for no longer than is necessary.
- 4.4.4 It is the responsibility of the HR Associate to facilitate and coordinate (with agreed consent) the change of records and documentation set out above and also IT credentials, staff identification and access passes. If the staff member is also a student at the University the Associate will also be responsible for coordinating with the relevant student service(s) to ensure all records are updated at the same time.
- 4.4.5 The General Data Protection Regulation (GDPR) and the Data Protection Act (2018) control and apply to any processing of personal data. This protects a staff members gender history being processed in an unlawful manner. An individual's trans status is classed as 'sensitive personal data' under the GDPR and therefore must be collected, recorded and used in with the GRPR's principles.
- 4.4.6 Staff should never disclose the trans status of any member of staff without their consent and they should seek to uphold confidentiality and privacy.

4.5 **Absence from work**

- 4.5.1 Time off for appointments, for example attending GP, hospital, counselling and Gender Identity Clinic appointments, relating to transitioning may be granted on request of the line manager. It is acknowledged that appointments and treatment may span many years.
- 4.5.2 Where a staff member needs to take a leave of absences that is directly related to transitioning or as a result of relevant medical treatment or ill health, they should consult with their line manager and the relevant processes outlined in the University



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absence management policies.³ Such time off should be treated no more or less favourably and absences directly related to transitioning or as a result of relevant medical treatment or ill health would not be expected to trigger action under the formal stages of the absence management policy.

- 4.5.3 A staff member who feels that flexible working may be of benefit in supporting them during their transition may apply for flexible working under the Flexible Working procedure.

4.6 **Disclosure and Barring Service (DBS) Checks and Professional Qualifications**

- 4.6.1 The DBS service has a specific procedure for a trans person to obtain a DBS check which does not reveal their former name and sex assigned at birth. This is known as a sensitive application and the staff member would need to contact the DBS directly in respect of this.

- 4.6.3 Where qualifications are a prerequisite of the position an individual is applying for, then that person may have been able to obtain certificates in their affirmed gender reflecting their correct name and details. If this has not been the case, any certificates provided which are in the individual's former name will be treated in the strictest confidence so as to protect the privacy of the individual. We will respect the affirmed gender of any staff member, regardless if they have a GRC or not.

4.7 **Provision of references**

- 4.7.1 If a reference is requested in respect of a current member of staff, the referee must not reveal the individual's trans status and any information must be provided using the affirmed gender of the staff member and their current name.

- 4.7.2 When an external organisation requests a reference, we will make the request using the prospective employee's correct name and gender since transitioning. We will not mention previous names or gender identity.

4.8 **Bullying, harassment and victimisation**

- 4.8.1 The University takes a zero-tolerance approach to all forms of bullying and harassment, which means that all allegations of this nature will be dealt with. This includes any form of transphobic bullying and harassment. Should a complaint of this nature be made, it may will be dealt with under the [Dignity and Respect policy](#).

³ the [Guidance on Leave and Absence from Work](#) (v2.0) details the different types of absence from work such as those due to ill health and time off for appointments. Absences related or due to a staff member's transition would not be expected to trigger action under the formal stages of the absence management policy.

4.8.2 Victimization occurs when a person is treated less favourably because they have, in good faith, made an allegation of harassment, or have indicated an intention to make such an allegation, or have assisted or supported another person in bringing forward such an allegation, or participated in an investigation of a complaint, or participated in any disciplinary hearing arising from an investigation.

4.9 **Campus facilities**

4.9.1 Any staff member can use the facilities that align with their gender identity. Where single sex facilities are available, staff members can use those which correspond with their gender identity without fear of bullying or harassment. Trans staff members will never be asked to use accessible or unisex facilities exclusively. If possible, gender neutral facilities will be made available for staff members who prefer to use such facilities.

4.10 **Dress Code and work wear**

4.10.1 The University has a gender-neutral approach to dress code. We do not have a formal dress code policy. All staff member can dress as they wish, and we fully support trans and non-binary staff to dress as they wish. Where a staff member is required to wear a uniform, staff members can choose which uniform they would like to wear. Where staff require more than one uniform, for example for genderfluid staff, the University will ensure that the staff member has access to the uniforms as soon as possible when requested.

4.11 **Equality, Diversity and Inclusion**

4.11.1 The University is committed to promoting equality and diversity, providing an inclusive and supportive environment for all, and ensuring that people are treated solely on the basis of their abilities and potential.⁴

5. **Legislation**

5.1 Trans staff members are protected by two key pieces of legislation:

- **Equality Act 2010:** Outlaws discrimination related to the protected characteristic of 'Gender Reassignment'. This means that anyone who intends to, is, or has undergone 'gender reassignment' is protected. This is not dependent on any medical appointments, diagnosis or intervention. However, this covers all trans people regardless if they have undergone gender reassignment or not. If a staff

⁴ University of Sussex, *Equality and Diversity Policy*, p.1.



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member identifies that they have gender dysphoria and the condition has a substantial and long-term adverse impact on their ability to carry out day-to-day activities, they may also be protected under the provisions in the Equality Act 2010 relating to the protected characteristic of disability. While the Act outlines the legal protections related to the protected characteristic of 'gender reassignment,' it is unclear on legal protections for non-binary people.

- **Gender Recognition Act 2004:** Allows trans people to obtain a Gender Recognition Certificate and have the correct gender marker on their birth certificate. However, the Act is limited to binary gender only.

In addition to these two pieces of legislation, the Human Rights Act 1998 and the General Data Protection Regulation (GDPR) and the Data Protection Act (2018) are also relevant to this policy.

Review / Contacts / References	
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Policy owner:	Human Resources
Lead contact / author:	Anthony McCoubrey