

TRANSGENDER SUPPORT IN THE WORKPLACE POLICY

May 2021

Version:	
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Policy Number	HR032/08/2024
Name of originator/author:	HR & OD Business Partner
Name of Sponsor:	Deputy Accountable Officer
Name of responsible committee	Governance Sub-committee
Date issued:	September 2021
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Target audience:	All staff working within or on behalf of NHS Sheffield CCG

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<http://www.intranet.sheffieldccg.nhs.uk/policies-procedure-forms-templates.htm>



POLICY AUDIT TOOL

To be completed and attached to any document which guides practice when submitted to the appropriate committee for consideration and approval.

Please give status of Policy: Revised		
1.	Details of Policy	
1.1	Policy Number	HR032/08/2024
1.2	Title of Policy:	Transgender support in the workplace Policy
1.3	Sponsor	Deputy Accountable Officer
1.4	Author:	HR & OD Business Partner
1.5	Lead Committee	Governance Sub-committee
1.6	Reason for policy:	Legislative and best employment practice
1.7	Who does the policy affect?	All employees
1.8	Are the National Guidelines/Codes of Practices etc issued?	See section A 2.1
1.9	Has an Equality Impact Assessment been carried out?	Yes
2.	Information Collation	
2.1	Where was Policy information obtained from?	See 1.6
3.	Policy Management	
3.1	Is there a requirement for a new or revised management structure for the implementation of the Policy?	No
3.2	If YES attach a copy to this form.	n/a
3.3	If NO explain why.	Current management structure satisfactory
4.	Consultation Process	
4.1	Was there external/internal consultation?	Yes
4.2	List groups/persons involved	Staff Forum Joint Staff Consultative Forum
4.3	Have external/internal comments been included?	Yes
4.4	If external/internal comments have not been included, state why.	n/a
5.	Implementation	
5.1	How and to whom will the policy be distributed?	All employees via the intranet
5.2	If there are implementation requirements such as training please detail.	Ongoing via mandatory training
5.3	What is the cost of implementation and how will this be funded	No funding required
6.	Monitoring	
6.2	How will this be monitored	Workforce Reports
6.3	Frequency of Monitoring	Quarterly

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DEFINITIONS

TERM	DEFINITION
Gender Dysphoria	Gender dysphoria describes people who experience significant dysphoria (discontent) with the sex they were assigned at birth.
‘Trans’ and / or ‘Transgender’	<p>A person whose gender identity does not conform to the sex they were assigned at birth. These are inclusive, umbrella terms, including people who describe themselves as transsexual, cross dressing people, and people who have a more complex sense of their own gender than either 100% female or 100% male.</p> <p><i>‘Transgender’</i> or <i>‘Trans’</i> (the latter is the preferred terminology) describes people whose gender identity differs from their sex assigned at birth. They are umbrella terms covering people who:</p> <ul style="list-style-type: none"> • Are intending to undergo, are undergoing, or have undergone gender reassignment at any stage; • Identify as having a gender different from that which they were assigned at birth and are planning or have had medical interventions such as hormone therapy or surgery; • Identify as having a gender different from that which they were assigned at birth, but who are not planning any medical intervention; and/or, • Are non-binary – that is, they are not solely male or female. They may define themselves as both, neither or something entirely different. They may or not have medical interventions to align their body with their non-binary gender identity. <p>These are not mutually exclusive alternatives.</p>
Gender identity	Gender identity is defined by Stonewall as ‘A person’s innate sense of their own gender, whether male, female or something else, which may or may not correspond to the assigned sex at birth’.
Gender reassignment	Another way of describing a person’s transition. To undergo gender reassignment usually means to undergo some sort of medical intervention, but it can also mean changing names, pronouns, dressing differently and living in their self-identified gender.

SECTION A – POLICY

1. Policy Statement, Aims and Objectives

1.1 NHS Sheffield Clinical Commissioning Group (CCG) is committed to equality of opportunity, preventing discrimination or harassment and promoting positive relations between all people employed in the organisation. It is the organisation's intention that all employees or applicants considering undergoing, undergoing or who have undergone transition will experience respect and dignity as employees or potential employees or whilst undertaking roles in the organisation in a range of other circumstances.

1.2 The development of this policy:

- Provides the organisation with a framework to address gender reassignment from an employment perspective, ensuring practice is in line with legal requirements and good practice guidance.
- Sets out how the organisation will ensure that individuals considering or undergoing transition or who have transitioned are treated with fairness and supported in recruitment, employment and career development.
- Confirms the organisation's policy on applying appropriate procedures in recruitment.
- Details the organisation's policy on applying appropriate procedures and support processes when employees or volunteers are considering, undergoing or have undergone transition.
- Provides guidance to ensure that staff have sufficient information, guidance and support to provide sensitive and supportive management to people who have informed them that they are considering undergoing or are undergoing transition.
- Sets out the action that will be taken by the organisation to ensure that people who have undergone transition are treated with respect and their legal rights are maintained.

2. Legislation and Guidance

2.1 The following legislation and guidance has been taken into consideration in the development of this policy.

- Data Protection Act 1998
- Equality Act 2010
- Human Rights Act 1998
- The Gender Recognition Act 2004
- CIPD Fact Sheet 'Sexual orientation, gender identity, gender reassignment and employment'
- Stonewall guidance 'Supporting trans staff in the workplace'

3. Scope

3.1 This policy applies to those members of staff that are directly employed by NHS

Sheffield CCG and for whom NHS Sheffield CCG has legal responsibility.

4. Accountabilities and Responsibilities

4.1 Overall accountability for ensuring that there are systems and processes to effectively manage situations involving transgender employees lies with the Accountable Officer. Responsibility is delegated to the following:

<p><i>Deputy Accountable Officer</i></p>	<ul style="list-style-type: none"> • Maintaining an overview of the corporate ratification and governance process associated with the policy. • Ensuring that the policy is applied fairly, consistently and in a non-discriminatory manner.
<p><i>Human Resources</i></p>	<ul style="list-style-type: none"> • Leading the development, implementation and review of the policy. • Providing advice and guidance to managers and employees in relation to the policy.
<p><i>Appointing Officers/ Line managers</i></p>	<ul style="list-style-type: none"> • Ensuring they understand and adhere to their obligations in relation to the policy. • Ensuring the policy is applied fairly and consistently to all employees. • Ensuring employees are aware of this policy including referring new employees to the policy as part of their induction process.
<p><i>All Employees</i></p>	<ul style="list-style-type: none"> • Ensuring they understand and adhere to their obligations in relation to this policy.
<p><i>Staff Side</i></p>	<ul style="list-style-type: none"> • Ensuring they are familiar with the policy and procedure. • Advising and representing employees who are members of a recognised Trade Union.

5. Dissemination, Training and Review

5.1 Dissemination

The effective implementation of this policy will support openness and transparency. NHS Sheffield CCG will:

- Ensure all employees and stakeholders have access to a copy of this policy

- via the organisation's website.
- Ensure employees are notified by email of new or updated policies.

5.2 Training

All employees will be offered relevant training commensurate with their duties and responsibilities. Employees requiring support should speak to their line manager in the first instance. Support may also be obtained through Human Resources. The Policy should be read in conjunction with:

- Equality and Diversity Policy
- Dignity at Work (Prevention of Bullying and Harassment) Policy
- Management of Sickness Absence Policy
- Recruitment and Selection Policy
- Annual Leave Policy
- Special Leave Policy

5.3 Review

5.3.1 As part of its development, this policy and its impact on staff, patients and the public has been reviewed in line with NHS Sheffield CCG's Equality Duties. The purpose of the assessment is to identify and if possible remove any disproportionate adverse impact on employees, patients and the public on the grounds of the protected characteristics under the Equality Act.

5.3.2 The policy will be reviewed every three years and in accordance with the following on an as and when required basis:

- Legislatives changes
- Good practice guidelines
- Case law
- Significant incidents reported
- New vulnerabilities identified
- Changes to organisational infrastructure
- Changes in practice

5.3.3 Policy management will be performance monitored to ensure that policies are in-date and relevant to the core business of the organisation. The results will be published in the regular Governance Sub-committee Reports.

SECTION B – PROCEDURE

1. Staff Considering Undergoing Transition

- 1.1 Employees who are considering undergoing transition are advised to initially approach their line manager and/or HR to discuss their decision in order to be made aware of the support available to them via the organisation. The line manager or HR should ensure that the employee is provided with a copy of this policy and appropriate support.
- 1.2 An employee who is considering undergoing transition may also wish to initially speak with Occupational Health and / or the Counselling Service. The line manager should agree with the employee what, if any, support will be helpful on an on-going basis.
- 1.3 The line manager should ensure that if a person has raised the issue of transition, any record made or transfer of information is made only with the specific agreement of the employee.

2. Staff Intending to Undergo Transition

If the member of staff decides to transition, once they have had opportunity to review the policy they have the option to start the procedure set out in Appendix 1.

The procedure in Appendix 1 sets out what should take place to support an employee who is considering transitioning.

3. Staff Undergoing Transition

- 3.1 People undergoing transition are usually required by medical protocols to 'live in role' for up to two years before formally transitioning. They may be prescribed hormone therapy or may choose to undergo surgical procedures. However, not all people who transition will wish to undergo surgical procedures. A person is legally protected even if they never seek medical treatment.
- 3.2 Absence from work due to transition must be treated in the same way as absence due to illness and take account of the Management of Sickness Absence Policy. The employee's line manager should discuss what appointments or time off they will require. Upon production of an appointment card/ letter, employees will be granted reasonable paid time off to attend medical/hospital appointments in line with the Special Leave Policy.
- 3.3 The organisation will maintain up to date information about support services available to a person who is transitioning and provide this information through the intranet and other communications.

4. Recruitment and New Employees

- 4.1 Recruitment and selection procedures will include provisions for ensuring that

people are not discriminated against on the basis of transition.

4.2 New and current employees requiring Disclosure and Barring Service (DBS) checks who are transitioning or who have undergone transition will be able to use the DBS's specific procedure which involves contacting the DBS directly.

4.3 The organisation does not require information regarding an employee or applicant's gender history and should not ask about this during DBS checking as the DBS internal procedures ensure that relevant checks are made. Where a conviction or (in Enhanced Disclosure cases) other relevant information has been recorded in a previous name, this will be revealed on the disclosure and as such details of any previous identity may become apparent.

5. Work Permits

5.1 Employees who have a work permit or visa are asked to comply with any work permit/visa regulations which may relate specifically to name change or gender reassignment in order that the work permit/visa continues to be valid.

6. References

6.1 References for an individual applying for a new job must be in the name which will be used in the new job and not disclose a former name.

6.2 If a transgender person has to disclose a previous identity in order for references from past employers to be obtained, strict confidentiality and respect for dignity should be applied and this information kept secure.

7. Gender Recognition Certificates (GRC)

7.1 The Gender Recognition Act 2004 provides that where a person holds a gender recognition certificate (GRC), they must be treated for all purposes as having their acquired gender.

7.2 Transgender people must not be routinely asked to produce a GRC. Employees who are transitioning may choose to apply for a GRC but they should not be required to do this.

7.3 People who have a GRC will be issued with a new birth certificate. This is confirmation of their legal gender.

8. Confidentiality

8.1 Employees may gain information about a person's gender history in the course of their work. This information must be kept confidential. If this information needs to be passed on then the specific permission of the person it relates to must be obtained.

9. National Insurance

9.1 Employees who change their name will need to inform the Department for Work and Pensions, providing the appropriate certificates and will pay NI contributions on the basis of their affirmed gender according to the GRC.

10. Pension

10.1 A transgender person who receives a full recognition certificate will be treated according to their affirmed gender for state pension purposes. Transgender people who do not obtain a full gender recognition certificate retain their full pension rights in accordance with the sex that is recorded on their birth certificate.

10.2 In terms of pension provision, it is good practice for employees to be treated as having their birth gender up to the point of transition (ie. when they start to live fully in the acquired gender) and their acquired gender from the point of transition. Further advice is available from the NHS Pensions Agency.

11. Professional Registration

11.1 Employees who are professionally registered are advised to contact their professional bodies to find out whether there are any specific requirements in terms of name changes. If the employer has to keep evidence of professional status or qualifications, it should be discussed with the employee how to retain such evidence on file so as not to compromise or breach disclosure of protected information.

APPENDIX 1

TRANSGENDER EMPLOYEES - PRACTICAL PROCEDURES FOR CONSIDERATION

PLANNING

Each person considering and/or undergoing transition will have different preferences and priorities. The following procedure is intended to provide a framework to support this process but may be modified to meet individual needs.

Managers should take account of all relevant factors specific to the individual concerned and remember that the transitioning experience is unique to each individual, involving different steps and activities throughout the process.

Due consideration should be given to practical matters at work and a planned approach that is led by the individual's preferences should be taken, for example with regard to:

- Dress codes and expectations with regard to appearance;
- The use of preferred pronouns (e.g. he/she/they) and titles (e.g. Mr/Mrs/Ms/Mx);
- Access to facilities in the workplace, such as toilets and showers.
- Whether the employee wants to stay in their current post or be redeployed
- The expected time scale of any medical and surgical procedures, if known and if applicable
- The expected point or phase of change of name, personal details and gender
- What time off will be required for medical treatment (if applicable) and/or possible side effects from any medication, if known

This is not an exhaustive list and advice should be sought from Human Resources when required.

INFORMING WORK COLLEAGUES, SERVICE USERS, CARERS AND CONTACTS

- There is no requirement and there should be no obligation to inform work colleagues, clients or the public that a person is transgender. However a manager should have a conversations with the employee to see if they wish to inform colleagues and if so if they wish to do this themselves, or would prefer this to be done for them
- Where case work is being undertaken or an employee has a long term caring relationship, it may be considered appropriate to have a discussion with the service user if the relationship with that individual was established prior to their change of gender and is to continue. How to manage this should be discussed with the transitioning person.
- Any inappropriate release of information resulting in the member of staff being identified against their stated wish, whether internally or externally, may be regarded as gross misconduct and subject to appropriate disciplinary action. It is therefore important to have a specific discussion at an early stage about who will be informed, at what stage and how.

- It is recommended that the transitioning person takes the lead in informing others but they may prefer that this is undertaken by their line manager or HR.
- It is important that the timing of disclosure is agreed as part of the planning process.
- At the point of transition, it is common for people to take annual leave and then return in their new name and gender. This may be a useful opportunity, with the person's consent, to brief work colleagues in preparation for the employee's return.
- Colleagues should use the individual's new name and preferred pronouns once this has been agreed. Any deliberate and sustained failure to do so could be dealt with under the Dignity at Work Policy.

RECORD KEEPING

- At the point of transition all public documents, public references (such as telephone directories, e-mail accounts, circulation lists, rotas, Electronic Staff Records) and employment details need to be amended to reflect the acquired gender of the person.
- Where documents have been seen and copies taken at the point of starting employment (such as a birth certificate) every effort should be made to replace those with equivalent documents in the new name and gender. This will prevent any breach of confidentiality.
- In some instances, it may be necessary to retain records relating to an individual's identity at birth, for example, for pension or insurance purposes.
- Access to records showing the change of name and any other details associated with the individual's status (such as records of absence for medical treatment) must be restricted to employees who need the information to undertake their work.

APPENDIX 2

NHS Sheffield CCG Equality Impact Assessment

Title of policy or service	Transgender support in the workplace Policy	
Name and role of officers completing the assessment	HR & OD Business Partner	
Date assessment started/completed	June 2021	

1. Outline	
<p>Give a brief summary of your policy or service</p> <ul style="list-style-type: none"> • Aims • Objectives • Links to other policies, including partners, national or regional 	<p>The Transgender Support in the Workplace Policy aims to provide an appropriate framework within NHS Sheffield CCG to enable managers to ensure employees who are considering or have undergone transition are fully supported in the workplace.</p> <p>It is the organisation's intention that all staff, volunteers, applicants and members of the public considering undergoing, undergoing or who have undergone transition will experience respect and dignity as employees, potential employees or whilst undertaking roles within the organisation for example as volunteers.</p>

<p>2. Gathering of Information</p> <p>This is the core of the analysis; what information do you have that indicates the policy or service might <i>impact on protected groups, with consideration of the General Equality Duty.</i></p>
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	What key impact have you identified?			What action do you need to take to address these issues?	What difference will this make?
	Positive Impact	Neutral impact	Negative impact		
Human rights		X			
Age		X			
Carers		X			
Disability		X			
Sex		X			
Race		X			
Religion or belief		X			
Sexual orientation		X			
Gender reassignment	X				<p>Most employers are aware of the need to show a positive approach to transgender people and other groups with 'protected characteristics'. An accepting environment in which diversity is celebrated ensures that valuable staff are recruited and retained. Yet at present 40% (1) of the people who would like to transition feel unable to do so in the work environment, and are therefore working under great stress and unlikely to reach their potential.</p> <p>Providing a welcoming environment, in which valuable staff are recruited and retained benefits everybody, not just the groups specifically targeted. The Equality Act 2010 strengthened and unified existing laws that protect transgender people, and the development of this policy represents</p>

					NHS Sheffield CCG's commitment to ensuring the benefits and requirements of this law are clearly understood and followed within the organisation, and that staff who may wish to undergo a transition process are aware they can do so with the assurance that their employer has a clear and supportive process in place.
Pregnancy and maternity		x			
Marriage and civil partnership (only eliminating discrimination)		x			
Other relevant group					

Please provide details on the actions you need to take below.

3. Action plan				
Issues identified	Actions required	How will you measure impact/progress	Timescale	Officer responsible
It is important to ensure all staff are aware of the framework that is in place within this policy to support staff and managers.	Communication of policy via All Staff email and intranet.			
	Mechanism for staff to direct queries to the organisation's HR Team or Equality and Diversity Lead through these			

	communications.			
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4. Monitoring, Review and Publication			
When will the proposal be reviewed and by whom?	Every 3 years on policy review		
Lead Officer	HR & OD Business Partner	Review date:	