

## Transitioning at work: guidance for staff and managers

### Introduction

This guidance should be read in conjunction with the *Policy on Trans Staff and Students*.

This guidance is specifically relevant to members of staff who propose to undergo, or are undergoing a process of socially aligning their gender expression with their gender identity, rather than with their birth-assigned sex. This is described as 'transition'. Often this is supported by medical interventions, and changes to names, titles and documentation. Under the Equality Act 2010, the 'process' or any 'part of the process' of moving away from the gender expression typically associated with the sex assigned at birth, towards an expression that reflects the gender identity, is referred to as "gender reassignment". This is a 'protected characteristic' under the Equality Act 2010, which provides legal safeguards against discrimination, harassment and victimisation, from the moment that a person 'proposes' to transition. (See 'Legislation' in Policy for Transgender Staff and Students). The guidance also applies to those who reverse such a transition.

Separate guidance will be put in place for trans students who are in the process of transition.

### Background information

Many, but not all, trans people decide to undergo transition. Where they seek medical interventions, the GP should refer them to a gender specialist. This may be a private provider, but this is expensive, so specialised treatment is usually initiated in an NHS Gender Identity Clinic (GIC). After assessments to establish the needs of the individual, treatment may commence that may initially include, for instance: hormone therapy, hair removal treatments, and Speech and Language Therapy.

Those who wish to access hormone therapy are not required to have transitioned at work. However, in order to access some surgeries, a continuous change of gender role and expression for at least 12 months, in all aspect the trans person's life, including their place of work, is a criterion. Owing to insufficient capacity in the provision of medical care for trans people, the waiting times can be several years to access a GIC and there are further delays for access to surgical services. These factors cause great stress for those seeking medical help.

### Managing the transition process

#### ***Notification of transition***

When a member of staff is considering transition, a meeting should be requested with their line manager, and possibly a member of HR and/or a trade union representative, depending on the personal wishes of the individual concerned. This is a confidential meeting in which an outline plan or 'memorandum of understanding' may be drawn up. This is a flexible document, not a contract, but rather a demonstration that the School will act according to the person's wishes and in their best interests. It may be changed in line with evolving circumstances.

Transition in the workplace has the potential to trigger prejudiced or discriminatory behaviours, unless prior training has taken place. The School has made is clear

through its Policy and Code of Conduct, that such behaviour will not be tolerated. Nevertheless, the trans person may feel particularly anxious during this time, as may their immediate colleagues. Managers should reassure them that they will be supported, and that immediate action will be taken if any incidents occur. The person may turn to their designated 'point of contact' as well as being signposted to outside means of support if required<sup>1</sup>.

It is recommended that the issues below are considered during the initial consultation meeting:

- agree a designated person to be mentor and 'point of contact';
- the expected timing of the transition of gender role at work;
- what time off may be required for medical appointments and any medical procedures;
- what amendments will be required to identity cards, records and systems;
- whether the employee wishes to inform colleagues themselves, or would prefer this to be done for them;
- how and when this information will be communicated;
- how to handle any discrimination, harassment or hostile actions.

### ***Disclosure – who, when and how***

It is up to the trans person to decide whom to tell, and when and how to tell them. There is no absolute obligation for staff to be informed that a colleague is about to transition. Nevertheless, in order that transition moves forward smoothly, some level of prior communication is necessary for those with whom the individual has ongoing working relationships, for instance, staff working in the same office. This would be provided on a limited, 'need to know' basis, so that the requirement to use the new name and pronouns, and to share facilities, is understood by work colleagues. Some trans people may wish to ensure that the wider School population is apprised of the situation, in which case, a carefully worded email may be sent simultaneously to appropriate staff and also, where relevant, to the students whom the trans person may work closely with or teach. In this situation the trans person may prefer to tell their students, face to face.

Managers must be available to support their staff member through this process. A designated person in the HR Division will need to be informed so that they can make changes in documentation and records. This will usually be the relevant HR Partner. Before an individual communicates their decision to transition, it is recommended ensuring that trans awareness training be available for other staff members to attend should they should choose. If the trans person wishes to be a part of the training, and chooses to take the opportunity to tell colleagues at that time, this should be accommodated sensitively.

### ***Time Off For Medical Appointments***

The majority of people who transition undergo some level of medical treatment. This may necessitate taking time off work and may have an impact on the workload of colleagues.

There is specific protection under the Equality Act for time off related to gender treatments. Staff and managers should ensure that no discrimination occurs against a person taking time off for such treatments. Trans people must not be treated less favourably than those absent because of illness or other medical treatment.

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<sup>1</sup> See <https://www.gires.org.uk/the-wiki> for details of support groups

Time off to attend a hospital or doctor's appointment which lasts for less than half of a working day should not be counted as sick leave, but if an appointment means an absence of a half-day or more, it should be recorded as sickness absence in the normal way. The usual statutory and occupational sick pay rules will apply (see *Sickness Absence Procedures*). Most surgery is not undertaken in the first couple of years following transition, but when major surgery is planned, managers should be flexible with regard to time off.

Time away from work for surgery and to recover from surgery will be recorded as sickness absence, but should not normally trigger the formal *Capability Health Procedure*. Staff may be asked to attend an Occupational Health Assessment before their return to work after any long-term absence, to ensure that they are fully recovered before returning to full duties. Managers should discuss any adjustments that might need to be made to facilitate the return to work.

### ***Name change, records and confidentiality***

Trans staff who have undertaken transition are likely to be anxious to protect their privacy with regard to their previously ascribed gender. The right to confidentiality must be respected. Current records/ letters/ documents for trans staff should not refer to a previous name. Where these can't be changed, they must be kept separate from the records of other staff, in locked storage and only accessed by named persons approved by the trans person, and with their permission, unless emergency circumstances occur.

In a small number of cases, it may be necessary for some records (e.g. with regard to pensions and insurance) to retain a reference to the sex of the employee at birth. Access to such records, and all personnel records should be restricted only to staff who require such details to perform their specific duties. Paper documents – as above – must not be accessible to those who do not deal directly with this person's pension or insurance situation. IT records must be password protected in such a way that they are not accessible to anyone other than those directly involved.

A trans individual will be able to change their name unofficially, as soon as they request this, e.g. through the "known as" field on HR's personnel and payroll system. Where staff members confirm on their employee record that they are trans, they will also be able to specify their preferred gender identity.

Formal change of records at the School can be undertaken upon production of a formal change of name certificate, for example, a Deed Poll or Statutory Declaration document. Trans individuals do not need a Gender Recognition Certificate (GRC). A newly recruited member of staff may already have a GRC and choose to volunteer this information, but it must not be requested. Those who are proposing to transition or have recently done so, cannot obtain a GRC. This requires the applicant to have lived permanently in their new gender role, full-time, for two years prior to the application and is therefore irrelevant when a person transitions.

### ***Practical arrangements***

The School supports the use, by trans staff, of the toilet facilities appropriate to the new gender role from the time of transition. In line with our policy document, the School will provide adequate gender neutral toilets to accommodate non-binary, non-gender and other gender diverse people. Trans people are not required to use these where male and female toilets are also provided, unless they choose to do so. They should have immediate access to the toilets that are appropriate to their gender identity and expression. Others who are not willing to share toilet facilities with a trans person will have the option of using gender neutral or accessible facilities.

## Treatment of trans members of the School community

### **Harassment**

The School will not tolerate bullying, harassment and/or victimisation on the basis of gender identity and/or transitioning at work. The School's [Anti-Bullying and Anti-Harassment Policy](#) should be referred to if any instances occur.

When other staff members or students are told about the proposed transition or become aware of it, they may have questions that are, intentionally or unintentionally, personal or intrusive. Any general awareness training should cover the issue of unacceptable questions, for instance, asking about surgery, which could be regarded as harassment. Some trans people are more willing to answer questions than others, so it is important that the trans individual and their manager discuss this in advance.

For some staff and students this will be their first engagement with a person who has transitioned and they may fear 'saying the wrong thing'. This can lead to isolation of the individual which is also unhelpful. Training should include educating staff about how they can be welcoming of a newly transitioned trans person, without being intrusive. It is not the responsibility of the trans individual to educate those around them; however, there may need to be some patience exercised with colleagues who make mistakes, such as using the wrong pronoun. Everyone does need to understand, however, that this is very painful to the trans person. If this is done with malicious intent it would amount to harassment.

All members of the LSE community should also be aware that *everyone* has responsibility to challenge discrimination towards trans staff (as with all discrimination). Individuals and teams should be supportive of their trans colleagues and not tolerate unacceptable behaviour that is witnessed or overheard. It is not acceptable to use the term 'banter' to excuse offensive behaviour.

### **Recruitment related issues**

It should not be expected that applicants and interviewees for employment will wish to disclose transgender status - some people consider it a very private matter; also many have experienced prejudice and harassment as a result of disclosure. This status is not relevant and a question about this topic should never be asked at interview. If the applicant does choose to disclose, this should never be a reason for not offering employment.

Where DBS checks are necessary, the School will inform all applicants that there is a confidential checking process for trans applicants which does not require them to disclose their previous identity to their employer. Trans applicants can contact the DBS applications line for further advice about completing the DBS checking form. The DBS keeps the relevant identity information secure from the employer and it is not printed on the DBS certificate.

If giving a reference for someone moving to a new job, the referee must use the name which is used by the trans member of staff and not refer to a former name.