

Policy on Trans Staff and Students

Introduction

The School celebrates and values diversity in both its workforce and student population. All staff and students should be able to be themselves at LSE, have equal access to services and facilities, reach their full potential and be treated with dignity and respect.

All staff and students work better if they can be themselves, and this is no different for trans members of the LSE community. However, many trans people still choose not to express their gender identity in their place of work, or study, because they fear a transphobic reaction from staff members or students. This can cause great stress and is likely to undermine their ability to focus on their job, or their studies. An environment in which diversity is celebrated, ensures that valuable staff are recruited and retained, and students obtain better results – an approach that benefits everyone, not just the groups targeted.

Policy aims

This policy sets out how the School will ensure an inclusive culture that both welcomes and supports trans staff and students and promotes an environment that is free from discrimination. Furthermore, this policy seeks to further positive relations amongst staff, students and the broader community of which we are all a part by acting as an information resource for those who wish to gain a greater understanding of trans matters at LSE.

The accompanying guidance note also outlines practical support that is available should staff or students seek to transition whilst working or studying at LSE.

This policy will ensure that LSE protects its staff and students in line with current legislation (see heading 'Legislation')

Definitions

Trans is an umbrella term covering a diverse range of gender identities that are not typically associated with an individual's sex as assigned at birth on the basis of genital appearance.

Language in this area changes continuously, and is also deeply personal. There are many individual preferences of terms and definitions. In this policy, the term 'trans' is used to recognise the broadest range of gender diversity, including those that fall between or outside the 'man' or 'woman' binary identities. Therefore, the policy also implicitly recognises identities that are 'non-binary' and 'non-gender'.

Gender dysphoria is a condition where a person experiences discomfort or distress because there is a mismatch between their biological sex and gender identity. Often people with gender dysphoria will wish to live according to their gender identity, rather than their assigned sex.

Transition refers to the point at which a person changes their gender expression to align it with their gender identity rather than their assigned sex. This may involve social change of dress, names, pronouns and titles; it may or may not be supported by medical and legal interventions. Some individuals will only take small steps, but others may undertake a series of permanent social and medical changes.

Transphobia is a term used to describe discrimination, harassment or victimisation, experienced by trans people, as a direct result of their known or perceived gender non-conforming identity or expression.

Policy Principles

Preventing discrimination

The School will not tolerate discrimination (direct or indirect), harassment, or victimisation on the basis of gender identity, nor any other protected characteristic.

The School is committed to ensuring that trans staff and students are not treated less favourably than non-trans members of the School community, as a consequence of being trans or being perceived as trans. The School is committed to assessing its policies and procedures to actively foster good relations and to mitigate any unintended negative impacts on trans staff and students.

These issues are also considered under the School's [Anti-Bullying and Anti-Harassment Policy](#), and where they are reported, they will be investigated as appropriate under the School's relevant staff or student procedure. Actions or behaviour which may constitute harassment include: name-calling, derogatory jokes or offensive comments, and inappropriate questioning, whether directly or through social media. This policy also covers any such inappropriate behaviours, whether related or unrelated to a protected characteristic.

LSE has responsibility to protect and promote freedom of speech within the law. However, legal obligations also exist which may set limits on certain freedoms, in order to protect the rights and freedoms of others. At controversial events it is not prudent to have someone in the chair whose own views mean they may not be seen as a neutral chairperson. Also, at controversial events it is particularly important that the Chair seeks to ensure that there is an opportunity for the views of the speaker(s) to be challenged (and ensure a right of reply)¹.

Commitment to trans equality

The School is committed actively to promoting good relations, and an inclusive and supportive environment for all staff and students. In relation to trans staff and students in particular, we are committed to the following:

- Trans students will receive fair and equal treatment during their programme of study, and will not be denied access to programmes, or progression to further programmes of study.
- The School will provide options for gender neutral titles within staff and student records, e.g. Mx , and use gender neutral language in its formal communications.

¹ For further information, please see

<http://www.lse.ac.uk/intranet/LSEServices/policies/pdfs/school/codOfGodPraFreSpe.pdf> and <http://www.lse.ac.uk/intranet/LSEServices/communications/eventsOffice/information/securityfreespechstaff.aspx>

- Programme content will strive to be inclusive. Any historical material that contains stereotypical depictions of trans people or transphobic material will be open to critical analysis.
- Trans students should always be accommodated according to their full-time gender expression, unless they choose otherwise. Concerns or issues that are raised by trans students will be handled sensitively and fairly by Residential Services².
- Staff and students who wish to disclose their trans history or give notification of their intention to transition will be supported sensitively and be allocated a mentor or 'point of contact' to help make all necessary arrangements, including the update of School records and systems with any new name and title (see separate guidance on 'transitioning at work'). It may be necessary to replace, rather than amend, degree and other certificates using the new name.
- The School will respect the confidentiality of trans staff and students and will not reveal/share this information without the prior agreement of the individual concerned. Where paper documents cannot be changed they will be kept separately in double sealed envelopes bearing the name of a person or persons who may have access, under certain circumstances, with the permission of the individual concerned (unless emergency circumstances prevail). IT records must be password protected in such a way that they are not accessible to anyone other than those directly involved.
- Staff and students undergoing medical and surgical procedures related to transition will receive positive support from the School to meet their particular needs during this period.
- Where a person needs to take time off work or study for medical assistance because of transition, they should not be treated any less favourably than if the absence were due to another cause such as sickness or injury.
- It will not be relevant for the purpose of staff recruitment, selection and promotion, access to training and benefits etc. that a person is trans or has a trans history.
- In circumstances where the School requires **official confirmation** of a person's identity, staff and students will be given the option of providing different types of documentation such as a driving licence, passport, deed poll or statutory declaration. Birth certificates are not identity documents and may 'out' a trans person, so will not be required except, for instance, to prove the right to work in the UK. Trans people may not hold the full range of documents reflective of their current name and gender status and the School will be flexible in its requirements.
- In the few instances where uniforms and/or dress codes are required by the School, these do not reinforce binary gender stereotypes.
- It is good practice to have adequate gender neutral toilets to accommodate non-binary, non-gender and other gender diverse people. However, the School recognises that trans people must not be obliged to use these facilities where male and female designated toilets are also provided, unless they choose to do so. From the moment a person transitions they should have access to the toilets that are appropriate to their gender identity and expression. Others who

² Please see School Accommodation Policy

are not willing to share toilet facilities with a trans person will have the option of using gender neutral or accessible facilities.

Promotion of trans equality

To ensure that LSE maintains a secure and inclusive culture for trans staff and students, the following proactive measures will take place to foster a safe and welcoming environment:

- Trans equality and gender identity issues will form part of generic equity, diversity and inclusion (EDI) training courses and modules
- Trans equality (along with other EDI issues) will be reinforced and 'mainstreamed' across staff training course content. e.g. gender identity issues will be included in case studies, training exercises etc., where relevant.

- Gender identity will be considered alongside other protected characteristics when policies and procedures are reviewed and/or designed, as part of the equality analysis (equality impact assessment) process.

- Our publicity, literature and public events will reflect the diversity of our staff and students, and wider society.

- Staff and student network groups that specifically include trans individuals will be supported to flourish and to encourage trans staff and students to actively participate in broader School life.

Legislation

The Equality Act 2010 applies to nine protected characteristics, of which 'gender reassignment' is one. This characteristic describes individuals who propose to undergo, are undergoing, or have undergone a process (or part of a process) to bring their gender expression and status into alignment with their gender identity. The School interprets the duties relating to this particular characteristic as going beyond those who fall under this specific definition and applying to broader matters of gender identity.

The School has a Public Sector Equality Duty, and therefore has a general duty to have due regard to eliminating discrimination (direct and indirect), harassment and victimisation; it must provide equality of opportunity, and foster good relations between those who have the protected characteristic (of gender reassignment), and others who do not have it.

Specific duties require the School to collect data, and to analyse the effect of its policies on protected groups, and to publish these.

- Direct discrimination occurs when a trans member of staff or a student is treated less favourably than non-trans members of the School community, as a consequence of being trans or being perceived as trans.

- Indirect discrimination may arise where a policy, practice or criterion within the School that applies equally to all staff and students has an adverse impact upon trans staff and students, that cannot be properly justified.

- Victimisation may occur, for instance, when a trans person, (or a person acting on their behalf) makes a complaint that discrimination has occurred because

they are trans. If, as a result of the complaint, harassment or further discrimination occurs, this would be 'victimisation'.

- Positive action under the Equality Act may be used to encourage applicants from this protected group. A trans person may be selected in preference to a candidate who is equally qualified for the post, on the basis that trans people are under-represented in the School's staff. Positive action in this manner is applicable to all under-represented protected groups.

The Human Rights Act 1998 (HRA): underpins all equality legislation that relates to employers in the public sector, and those for whom they provide services. Article 8, in particular, requires trans and non-binary people to be treated with respect, dignity and fairness, and to protect their privacy in family life and correspondence. Article 3 creates an absolute ban on degrading treatment. Article 14 is also important; it does not stand alone, but it ensures that all the other Articles under the HRA are delivered in a non-discriminatory way.

Data Protection Act 1998 (DPA): All IT records of the individual's personal life and medical history ("sensitive personal data") must be secured in line with the Data Protection Act, including password-protection, and should be "kept for no longer than is absolutely necessary". Any named person who needs to access this private information, must still ask permission of the individual concerned, unless there is an emergency situation and the individual is unable to give permission. Employers should note that an individual who suffers damage by reason of any contravention by a data controller of any of the requirements of the DPA is entitled to compensation from the data controller for that damage.

The Gender Recognition Act 2004: A Gender Recognition Certificate enables the person to have a new birth certificate, if their birth was registered in the UK, and to be legally recognised 'for all purposes' according to their new gender role and expression, including in marriage, same-sex marriage and civil partnership. The Gender Recognition Certificate (GRC) may be obtained by application to the Gender Recognition Panel.³ Applicants must provide evidence that they have lived permanently in their new gender role, full-time, for two years prior to their application. They must be at least 18 years old. A 'diagnosis' of gender dysphoria is required, but no medical interventions have to be undertaken. Trans people may obtain a GRC within a pre-existing (heterosexual) marriage, which must, however, be converted to a 'same-sex' marriage, with the written consent of the non-trans spouse; it may also be converted to a Civil Partnership if that is preferred. When a trans person seeks to obtain a GRC within a pre-existing Civil Partnership, that partnership must be changed into a (heterosexual) marriage, with the written consent of the non-trans partner.

A GRC is held by only a minority of trans people, and it has little relevance in the School setting. Its privacy provisions extend what is already available under Data Protection, and Human Rights legislation, and make it a potentially criminal act to disclose, without the person's permission, their trans status or history.

³ <https://www.gov.uk/apply-gender-recognition-certificate/overview>