

|  |  |
| --- | --- |
| **Document name:** | **Trans and intersex equality policy** |
| **Document type:** | Human Resources Policy |
| **Staff group to whom it applies:** | All staff within the Trust |
| **Distribution:** | The whole of the Trust |
| **How to access:** | Intranet and internet |
| **Issue date:** | July 2022 |
| **Next review:** | July 2025 |
| **Approved by:** | Executive Management Team |
| **Developed by:** | HR / Staff Side/ Policy Sub Group (consisting of staff and management representatives) |
| **Director leads:** | Chief People Officer |
| **Contact for advice:** | Human Resources |

**Contents** **Page**

1. Introduction 3
2. Purpose and Scope 3
3. Legal Framework 4
4. Explanation of terms 6
5. Responsibilities 7
6. Key Principles 8
7. Appointment and Employment of Trans Staff 8
8. Supporting Trans Staff in the Workplace 11

Appendix 1 Sources of advice and support 16

Appendix 2 Equality Impact Assessment 17

Appendix 3 Version control sheet 22

1. **Introduction**

South West Yorkshire Partnership NHS Foundation Trust is committed to ensuring that trans and intersex employees receive equal treatment and protection from discrimination at work on the grounds of their gender identity. The Trust believes that all employees should be acknowledged as the gender in which they wish to present. To reflect this commitment, the Trust has an ambition to become a Stonewall top 10 employer.

For the purpose of this policy, we will refer to a wide variety of people on the gender spectrum as ‘trans’. Stonewall’s definition of trans is:

*“An umbrella term to describe people whose gender is not the same as, or does not sit comfortably with, the sex they were assigned at birth.”*

The Trust recognises there is no universal experience of being trans. Individuals are shaped by their ethnicity, disability, age, social class, and a wide range of other aspects of their identity.

The Trust respects and supports employees’ rights to self-identify and recognises intersex people as a distinct and separate group with their own needs that must be supported. Stonewall’s definition of intersex is:

*“A term used to describe a person who may have the biological attributes of both sexes or whose biological attributes do not fit with societal assumptions about what constitutes male or female.”*

People may use and prefer different terms and so it is important to remember that no one term has the same meaning to everyone. In dealing with individual cases, it is best to be led by the individual person and use the terms they prefer.

The Trust recognises that people who can be themselves at work feel higher levels of engagement with the organisation and provide a better service. The Trust aims to promote a culture in which trans, and intersex employees are supported to be themselves in the workplace.

Being an employer of choice is a key goal for the Trust and it is therefore vital that we are able to recruit and retain skilled staff with values that reflect our own from across the communities we serve. This includes ensuring that trans and intersex people are welcomed and respected and that our policies do not unintentionally operate in ways that discriminate against them.

1. **Purpose and Scope**

The purpose of this policy is to ensure that:

* Staff are protected in the workplace regardless of their gender identity.
* Medical and personnel records that are held by the Trust about staff are accurate and up to date.

The scope of this policy is to:

* Ensure that employment practices support trans and intersex staff and that they are treated with dignity and respect.
* Ensure that information governance and health records protocols are in place to facilitate an individual’s choice to change their name and gender at any time.
* Ensure that wards, departments and services are supported to ensure they are able to comply with legal requirements contained in the Equality Act 2010 in respect of the Transgender protected characteristic and Gender Recognition Act 2004 (Currently under consultation for amendment), as well as duties contained in the General Data Protection Regulations 2018 (GDPR).

**3. Legal Framework**

The law on gender identity is complex and shifting. People can obtain documents such as a passport and driving licence, as well as obtain a new NHS number in their preferred gender without having reassignment surgery or obtaining a GRC. This section simply states the relevant legal framework, it is not a full reflection of the Trust’s position which is a progressive and inclusive one recognising that case law is constantly changing the scope of legislation.

**The Equality Act 2010**

The Equality Act 2010 (The Act) protects people on the basis of gender reassignment from direct and indirect discrimination and harassment. This includes discrimination by association and discrimination against people perceived to have the protected characteristic of gender reassignment.

The Act also places a proactive duty on public organisations through the Public Sector Equality Duty (PSED) to promote equality of opportunity, foster good relations and eliminate unlawful discrimination between people who have the protected characteristic of gender reassignment and people who do not.

**The Act states that:**

1. A person has the protected characteristic of gender reassignment if the person is proposing to undergo, is undergoing, or has undergone a process (or part of a process) for the purpose for reassigning the person’s sex by changing physiological, or other attributes of sex.
2. A reference to a transsexual person is a reference to a person who has the protected characteristic of gender reassignment.

**The Act defines discrimination and harassment as follows:**

1. **Direct** **Discrimination:** treating someone less favourably than other employees because of their gender reassignment, whether actual or perceived, or because they associate with someone who intends to undergo, is undergoing or has undergone gender reassignment, for example an employer does not employ a person because they have undergone gender reassignment and they think it may make the rest of the team uncomfortable
2. **Indirect discrimination:** can occur where there is a policy, practice or procedure that applies to all workers, but particularly disadvantages people who intend to undergo, are undergoing or have undergone gender reassignment
3. **Harassment:** when unwanted conduct related to gender reassignment has the purpose or effect of violating a person's dignity or creating an intimidating, hostile, degrading or humiliating environment
4. **Victimisation:** unfair treatment of an employee who has made or supported a complaint about gender reassignment discrimination

It is discrimination to treat transgender people less favourably for being absent from work because they propose to undergo, are undergoing or have undergone gender reassignment than they would be treated if they were absent because they were ill or injured, or if they were absent for some other reason.

**Gender Recognition Act 2004**

The Gender Recognition Act 2004 provides transsexual people with the opportunity to obtain legal recognition in their acquired gender (it is noted that transsexual people generally prefer the term ‘affirmed gender’, though the act uses the term ‘acquired gender’). This follows from the issuing of a full gender recognition certificate (GRC) in cases where the Gender Recognition Panel (a body made up of judicially trained lawyers and Doctors is satisfied that the applicant:

* Has, or has had, Gender Dysphoria
* Has lived in the affirmed gender throughout the preceding two years
* Intends to live in the affirmed gender until death

It should be noted that surgical/hormonal intervention is not a requirement for the issue of a GRC. This certificate replaces the birth certificate but is only available for people aged 18 plus.

Upon the issuing of a full GRC the person assumes all legal rights of the newly recognised gender. A person born in the United Kingdom is entitled to a new birth certificate reflecting this change.

Section 22 re-enforces the right to privacy for the Trans person. Once a person has GRC it is a criminal offence to disclose the person was born anything other than their affirmed gender. Anyone revealing this after acquiring the knowledge through their official capacity or work is liable to prosecution. S22 (4)(b) allows disclosure with the Transsexual persons prior agreement.

**General Data Protection Regulations**

Under the GDPR, information pertaining to an individual’s past or future planned gender reassignment procedure, including any mental health treatment or care provided in support of undergoing the procedure, constitutes health data, which is a special category of data that can only be processed with the individual’s explicit consent or another legal basis, including where it is necessary for carrying out obligations and exercising rights in the field of employment law.

**Gender Equality Duty**

From April 2007, there has been a requirement of public authorities, including NHS organisations, to comply with a general duty to proactively promote gender equality.

**4. Common Terms or Self Descriptors used**

It is important to always remember that each person has a different experience. 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

Genderless

Agender

Nongender

Third gender

Bi-gender

Trans man

Trans woman

Trans masculine

Trans feminine

Neutrois

Intersex people may describe themselves as male, female or in another way.

While there are many terms, used by people who:

1. Identify as a different gender to the one they were assigned at birth
2. Have a degree of gender fluidity
3. Do not feel that they are either male or female

it is recognised that the meaning of words is important to each individual and subjective. It is easy to cause great offence by confusing terms so people should ask questions, listen, accept, be respectful and normalise gender.

1. **Responsibilities**

Executive Management Team (EMT)

* will approve this policy and be responsible for ensuring it has been developed according to the Trust’s values and procedures.
* ensure fairness in application of the policy

Chief People Officer

* will be lead Director for this policy
* is responsible for ensuring equal opportunities for all employees and for maintaining correct adherence to Trust policies and procedures.
* will ensure that Service Managers are aware of their responsibility in relation to the policy

Equality, Involvement and Inclusion committee

* will monitor the effectiveness of this policy

Staff networks

* will comment on and influence policy
* Will raise any emerging issues from the application of this policy with HR and the E&I committee
* Will provide advice and support to managers and staff on the application of this policy

Managers and supervisors

* have a duty to establish and maintain a safe working environment and supportive culture, free from discrimination, for all staff.
* will ensure that staff are aware of and comply with this policy.
* Will take every opportunity to raise awareness of diversity acceptance in every workplace

Human Resources

* Will promote and raise awareness of diversity acceptance at every opportunity
* will provide advice and support to Trust Managers and staff to ensure the consistent application of Trust policy and compliance with relevant employment legislation.
* Will provide individual guidance and support for managers and their member of staff during the preparatory work towards transition in the workplace
* will update Trust policy and guidance in accordance with national policy, best practice and employment legislation.
* Will ensure the voice of staff with lived experience are considered in monitoring and reviewing the application of the policy

Information Governance

* will review and update the information governance elements of this policy in line with local and national requirements.

Trade Union Representatives

* Promote and raise awareness of diversity acceptance at every opportunity
* provide advice and support as requested
* work with the Trust to monitor the effectiveness of this policy
* Will raise any issues noted with the application of the policy in the regular HR/SS meetings to avoid delay
* Ensure the voice of staff with lived experience are considered in monitoring and reviewing the application of the policy

All Staff

* are responsible for their own behaviour and are expected to comply with the policy, ensuring they treat trans and intersex colleagues with dignity and respect.

1. **Key Principles**

Staff must ensure that they have a respectful and flexible approach towards all trans and intersex people. This principle extends to all people regardless of whether they live continuously, or temporarily, in a gender role that is different to that assigned at birth.

The application of this policy is not limited to the protected characteristic of gender reassignment, as defined by the Equality Act 2010 - i.e., people who are proposing to undergo, are undergoing or have undergone a process (or part of a process) of gender reassignment. The Trust is committed to supporting all trans and intersex members of staff.

All Trust staff play a key role in ensuring that all of the information that the Trust processes, both personal and non-personal is:

* Held securely and confidentially
* Obtained fairly and efficiently
* Recorded accurately and reliably
* Used effectively and ethically
* Shared appropriately and lawfully

**7. Appointment and Employment of trans and intersex staff**

This section of the policy addresses the sensitive and appropriate responses that are expected of employees of the Trust with regard to the employment of trans and intersex people. It:

* Provides guidance for the appointment and employment of trans people or existing staff who change the way they identify in terms of gender
* Provides a framework for line managers to work to in respect of the issues that must be considered and/or actions undertaken with existing staff or individuals within the recruitment process, or during subsequent employment.
  1. **Protection**

It is unlawful for an employer to discriminate against an employee, job applicant or contractor on the grounds of that person’s gender identity. . Discrimination in this context means treating a trans person less favourably than you treat (or would treat) another employee who identifies with their gender assigned at birth.

Protection applies from the moment at which the person indicates their intention to start the reassignment process and covers recruitment, transfer, training and promotion, access to work-related benefits, facilities and services, dismissal, and any other associated detriment. It is also unlawful for an employer to instruct someone else to do something discriminatory – for instance, telling an employment agency not to hire a trans person.

Protection also applies to those who are *perceived* to have the protected characteristic of gender reassignment. These individuals may suffer discrimination, bullying and harassment without their having any intention of gender reassignment.

**7.2** **Gender Recognition Certificate and Non-disclosure**

The Gender Recognition Act (see section 3, Legal Framework above) brings specific privacy rights., Anyone including a manager, who acquires information about someone’s transgender status *is liable to criminal* *proceedings* if they pass that information to a third party without the permission of the individual. This would include, for example, the individual’s colleagues, Human Resources staff or another manager.

Trans people should not be made to obtain, nor made to feel that they should obtain, a Gender Recognition Certificate. Transgender people without a GRC should not be made to feel incomplete in their acquired gender. Their rights, obligations and gender status at work will not alter with the possession of a GRC (except in rare situations).

Some trans and intersex people wish to keep their gender assigned at birth private, whilst others are willing to discuss it confidentially or even openly. There is no obligation on a trans or intersex person to disclose their status as a condition of employment.

Interviewees may not necessarily want to disclose their transgender status at interview, and it is not a question that should be asked. However, if an exception applies (in rare situations), an individual would be expected to disclose their status and an interviewer would therefore be able to ask an appropriate question. The exceptions will not apply if a person has obtained a Gender Recognition Certificate.

Note that on joining the organisation, some trans or intersex people may not have any identification documents, qualification certificates etc in their acquired gender, and so may have to disclose their birth gender identity. Employers must ensure that this information is kept confidential.

**7.3 Lawful Disclosure of Information**

The Gender Recognition Act (GRA) defines information about a person’s application for gender recognition and a person’s gender history as ‘protected information’. This means that if an employer or employee acquires the information in the course of official duties, it is a criminal offence to disclose it. (Official duties include employment, trade union representation or supply of business or professional services.) It is not an offence, however, to disclose ‘protected information’ if the person cannot be identified or if the individual gives their consent.

**7.4 References and Certificates of Qualifications**

When an employer is asked for a reference for a trans or intersex person, they must provide it, without any hint or reference to the fact that the person has had a change of gender. If the employer has to keep evidence of professional status or qualification, they should discuss with the individual concerned how to retain such evidence on file – if, for example, certificates are in the individual’s original name – so as not to compromise or breach the disclosure of protected information.

The individual should identify to their line manager the point at which their new gender identity is formally established, so the appropriate amendments can be made to payroll/HR records and any other related matters dealt with (for example, identity badges, the individual’s choice of name for email, intranet address entry etc).

**7.5 DBS Procedure**

DBS applications need not be a problem for trans or intersex people. There is a special process which they can follow in order to avoid the problems they would otherwise face in complying with the requirement to make truthful statements and revealing their gender history. The DBS has a dedicated number for trans people to ring which is 0151 676 1452 or email [sensitive@dbs.gsi.gov](mailto:sensitive@dbs.gsi.gov).uk

**7.6 Payroll/HR Records**

Suitable evidence to account for the transition and name change should be presented to the Human Resources Representative for their work area. This should be in the form of any of the following: A Name Change Deed (eg Statutory Declaration); Driving license, Passport.

On receiving this information, the Trust will ensure that all documents, public references (such as telephone directories, prospectuses, web biographies) and employment details reflect the acquired gender of the person. This will prevent any breach of confidentiality. Where documents have been seen and copies taken at the point of starting employment (such as a birth certificate) then every effort should be made to replace those with equivalent documents in the new name and gender. It is the responsibility of the employee to provide new versions of documentation.

To maintain confidentiality, where possible new records should be produced; for instance the cover of a personnel file should be replaced and a new name included rather than the old file have the name crossed out and replaced. In some instances, however, it may be necessary to retain records relating to an individual’s identity at birth, for example, for pension or insurance purposes prior to obtaining gender recognition. It should be noted that once a person has obtained a Gender Recognition Certificate these MUST be replaced with new details; however, it is the responsibility of the employee to provide updated documentation e.g., qualification certificates.

* 1. **Recruitment Compliance**

Former Names:

NHS Jobs does not require applicants to state former names.

Equal Opportunities Form:

There is currently no option for trans, intersex or other.

Proof of Identify:

NHS identity verification documentation is varied and should provide enough scope for applicants to provide documentation in their acquired gender.

Certificates:

The trust recognises that it can be difficult and expensive for a trans person to change their qualification certificates. If these are in a former name then where possible a record will be made that the certification has been seen, but a copy will not be taken.  If it is absolutely necessary for the trust to store a copy, they will be stored securely and only accessed by named persons.

**8. Supporting transitioning staff in the workplace**

The process of transitioning at work can mean different things for different people. This may be a big change – such as going from presenting as female to male, with accompanying hormone therapy and possible gender reassignment surgery. It could be a subtle a change as asking people to address them by preferred pronouns such as ‘they’ rather than ‘he/she’.

The process can be very stressful requiring support and sympathetic handling from all concerned, and there is an obvious need to adopt the right approach in the workplace where the transition can have significant impact both upon the individual and upon colleagues. The following section describes stages in the process, and the considerations and actions expected of the manager, who can at any time seek advice and support from their HR manager.

* 1. **Developing a joint plan for managing the transition at work**

Once the transgender member of staff has indicated their intention to start the process, then their line manager may suggest a meeting with them and the HR manager. The employee should be given the opportunity to arrange to be accompanied, should they wish, by a trade union representative or work colleague. The purpose of that meeting would be to:

* Ascertain the expected point, or phase, of change of name, personal details and social gender.
* Confirm who they want as their main point of contact within the organisation. This will typically be their line manager.
* Establish whether the employee wishes to inform their colleagues themselves or would prefer this to be done for them.
* Understand the expected timescale and time off for medical and surgical procedures
* Agree a procedure for adhering to any dress code
* Agree the point at which the individual will commence using single sex facilities in their new gender (such as toilets and changing areas).
* Determine what amendments will need to be made to records and systems.

If a member of staff is working in a gender specific role, for example a female working with female service users, consideration would need to be given to the implications should they transition to a male as they would no longer be able to fulfil the gender specific requirement for the role. A risk assessment would be carried out and they would be placed on the redeployment register (Tier 1) and provided with support in securing suitable alternative employment within the Trust, in line with the relevant policies and procedures.

**8.2 Relocation, remaining at same location or redeployment**

A person may want to be relocated during the transition period if, for example, their working environment is stressful, perhaps because they have direct contact with the public. Relocation may not always be appropriate or feasible and any decision should always be made in consultation with the individual. Some employees may prefer to stay within the environment in which they have made friends and where they feel supported.

In very rare cases, an individual may feel personally unable to continue to work in the same area/department, not because of discrimination but because to continue to do so may have a detrimental effect on their health and wellbeing. In such cases, following discussion with their line manager and HR, the individual may be placed on the Trust’s redeployment register (Tier 3). Although their employment will not initially be ‘at risk’ reasonable attempts to secure redeployment will be made, however, alternative work cannot be guaranteed. If after a reasonable period alternative work cannot be found, the manager will meet with the individual, their representative (should they have one) and HR to discuss their future employment in line with the relevant policies and procedures.

**8.3 Informing colleagues**

It is good practice for employers to take responsibility for informing whoever needs to know, unless the individual going through the process would prefer to do this. However, employers/managers should not inform colleagues, clients and the public that an employee is intending to undergo or is currently transitioning without the individual’s explicit consent. If the individual prefers to inform people themselves, then ideally the employer/manager should be advised when the disclosure is to take place and in what detail, so that they can provide appropriate support. Generally, it will only be those who knew the person before the transition who will have to be informed. There will be some others who need to know for administrative processes, such as Payroll, however confidentiality should be maintained as much as possible.

Once the transition period is complete, it is never appropriate to inform colleagues, clients and the public of an employee’s gender history. If such an employee is in possession of a Gender Recognition Certificate, it is unlawful to disclose their previous gender status without their consent.

**8.4 Briefing of colleagues**

Whether or not the individual remains in the same post, a plan for support both during and after the transition will be needed to address such questions as what information will need to be provided for colleagues. At the point of change of gender, it is common for people to take a short time off work as annual leave and return in their new name and gender role. If this is the case, this period can be used as an opportunity to brief colleagues and to ensure that managers stress the need for proper treatment of the employee. All briefings should be complete by their return. Other arrangements should be made in consultation with a person who does not take leave.

**8.5** **Bullying and harassment**

It should be made clear to staff that behaviour which may be considered as bullying and harassment by a transgender person will be regarded as extremely serious and will be dealt with under the Trust’s Harassment and Bullying policy.

**8.6 Expected timescales and time off for medical and surgical procedures**

The law recognises that someone who is undergoing a medical transition to their new gender will require sometimes substantial periods of time off work in order to undergo treatment. As far as possible, managers should discuss how much time the individual will need to undergo gender reassignment treatment. The law does not specify a minimum or maximum time that employers should allow for transitioning. If the transgender employee is absent for a long period however, termination of their contract, or ill health retirement, as laid out in the Trust’s Sickness Absence Policy, may apply. If, for example, the person has taken time beyond that needed for transition (including psychological considerations), or the transition process has caused complications which renders them unable to return to work.

An employee who undergoes medical or surgical treatment relating to gender reassignment, will receive appropriate support for this. It will be managed through the Trust’s Sickness Absence, Special Leave and Flexible Working Policies. Managers should try to offer flexibility to individuals who may need to take holiday or rearrange working hours in order to attend additional appointments (for instance for electrolysis) outside of work. Managers should remember that it would constitute unlawful discrimination if they treat an individual undergoing gender reassignment less favourably than someone who is absent for some other medical reason where it would be reasonable to allow a similar amount of time off work. It is also unlawful to dismiss an individual for reasons of impending gender reassignment treatment.

**8.7 Agreeing a procedure for adhering to any dress code**

It is good practice to allow flexibility regarding the department’s dress code during transition, and to respect the individual’s wishes as to when he or she is comfortable to change into the form of dress appropriate for their new gender. However, having made the decision to dress in the acquired gender, the individual will be expected to dress appropriately for their local work environment.

**8.8 Agreeing the point at which the individual will commence using single sex facilities in their new gender.**

The employer and employee should agree the point at which the use of facilities such as changing rooms and toilets should change from one gender to the other. It is advised that the individual starts to use the facilities for their new gender at the point where they begin to live in that gender, irrespective of the progress of surgical procedures.

It is not acceptable to insist that a trans or intersex person uses separate facilities such as a disabled toilet. Under no circumstances should they be expected, after transitioning, to use the facilities of their former gender.

**8.9 Identifying what managers and colleagues can do to make the transition easier.**

All members of staff should refer to the trans person by their new name and use pronouns appropriate to their new gender role. In the early days it is recognised that people may occasionally get mixed up and use the person’s former name and/or gender pronouns. Managers should discuss the potential for this with the trans person in the planning meeting Everyone should be aware that this could happen and be prepared to make allowances in the short term.

Unfortunately, no matter how much preparation is made, and support given, there may still be people who do not understand the situation or are unsympathetic, and this should be immediately dealt with by the line manager using usual procedures for unacceptable conduct.

All staff should be aware that purposely using a person’s ‘dead name’ and misgendering is not acceptable and will be taken very seriously. Any incidents of misconduct, harassment, bullying or victimisation will be dealt with quickly and in accordance with Trust’s Harassment and Bullying Policy and/or Disciplinary Procedure as appropriate.

* 1. **Wellbeing**

Staff in transition may benefit from support and can contact the Trust’s Occupational Health service which provides a confidential staff counselling service for staff and seeks to match counsellors to staff based on their individual need. Signposting to bespoke services is available as required. Occupational Health information is available under the ‘Your Wellbeing’ section on the Trust’s intranet pages.

**8.11 Pensions and national insurance**

Where pensions, national insurance contributions or other benefits are dependent on legal sex, trans people will be advised of the different implications of whether they do or do not have a Gender Recognition Certificate.

**8.12 Support for employees with a family member who is transitioning**

If an employee is supporting a family member who is transitioning, they may need to take time off to attend appointments and treatment or give assistance following surgical procedures. Some of these may be at short notice and may involve travelling a long distance. Managers are encouraged to be flexible within Trust policies and procedures to accommodate such requests.

**8.13 Use of Pronouns**

The correct use of pronouns is essential. Gender pronouns such as they, zir, ze, she, he etc specifically refer to people who you are talking about. We don’t tend to think about them as we normally interpret or ‘read’ a person’s gender based on their outward appearance, presentation and expression and ‘assign’ a pronoun. However reading may not give a correct interpretation of the person’s gender as gender identity is an internal sense of one’s own gender, and not necessarily related to societal norms. Additionally, some people prefer not to have pronouns used preferring to be referred to as their name only.

When someone is referred to in the wrong pronoun, it can make them feel disrespected, invalidated, devalued, alienated, hurt or often, all of these things, and can also be seen as oppressive.

**8.14 Being inclusive in using and respecting gender pronouns**

Discussing and correctly using gender pronouns is extremely important, it sets a tone of respect and demonstrates that trans, non-binary and gender non-conforming people are not being taken for granted. This is especially important for people who have transitioned in the workplace, and new staff.

When asking during verbal introductions, it may feel awkward at first as we are not used to doing it. Remember it is more awkward to get it wrong or make hurtful assumptions.

You can ask:

* What pronouns do you use?
* How would you like me to refer to you?
* How would you like to be addressed?
* Can you remind me which pronouns you like for yourself?
* My name is Sam and my pronouns are she and her. What about you?

If you accidentally use the wrong pronoun, acknowledge it and then move on. Don’t continue to draw attention to the error as it will continue to make you, and the person you are addressing, feel awkward. Any members of staff who refuse to use the name, pronouns or gender deemed appropriate by another member of staff will be seen as acting in a harassing and/or discriminatory manner and may be subject to the Trust’s Harassment and Bullying Policy and/or Disciplinary Procedure as appropriate.

**Appendix 1**

**Sources of and Advice and Support**

Gender reassignment discrimination: key points for the workplace

<https://archive.acas.org.uk/media/4912/Gender-reassignment-discrimination-key-points-for-the-workplace/pdf/Gender_reassignment_discrimination_Nov.pdf>

Trans: A Practical Guide for the NHS:

<https://www.gov.uk/government/organisations/department-of-health-and-social-care>

Equality review report: Engendered penalties

<http://www.pfc.org.uk/pdf/EngenderedPenalties.pdf>

RCN guidance: Preventing suicide among young trans people

<https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/417707/Trans_suicide_Prevention_Toolkit_Final_26032015.pdf>

A guide to Hormone Therapy for Trans People:

<http://www.gires.org.uk/assets/DOH-Assets/pdf/doh-hormone-therapy.pdf>

A Guide for Young Trans People in the UK:

<http://www.safeschoolscoalition.org/guide4young-trans-inUK.pdf>

Reducing Health Inequalities for LGBT People – Briefings for Health & Social Care Staff:

<http://webarchive.nationalarchives.gov.uk/+/www.dh.gov.uk/en/publicationsandstatistics/publications/publicationspolicyandguidance/dh_078347>

Bereavement: A Guide for Transsexual, Transgender People and their Loved Ones:

<http://webarchive.nationalarchives.gov.uk/20130107105354/http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/@dh/@en/documents/digitalasset/dh_074251.pdf>

Living My Life:

<http://www.nhs.uk/Livewell/Transhealth/Documents/LivingMyLife.pdf>

Domestic Violence: A Resource for Trans People:

<http://www.domesticviolencelondon.nhs.uk/uploads/downloads/DV%20Trans%20guide_FINAL_FOR_WEB.pdf>

GIRES report: Gender variance in the UK

<https://www.gires.org.uk/wp-content/uploads/2014/10/GenderVarianceUK-report.pdf>

**Appendix 2**

**Equality Impact Assessment template**

**to be completed for all policies, procedures and strategies**

**Date of EIA: 20 June 2022 Review Date: June 2025**

**Completed By: Paul Brown, HR Business Manager**

|  |  |  |
| --- | --- | --- |
|  | **QUESTIONS** | **ANSWERS AND ACTIONS** |
| **1** | **What is being assessed?**  Prompt: what is the function of this document (new or revised) | **Trans and Intersex Equality Policy (revised)** |
| **2** | **Description of the document**  Prompt: What is the aim of this document | **HR policy. To ensure that staff are supported and protected in the workplace regardless of their gender identity.** |
| **3** | **Lead contact person for the Equality Impact Assessment** | **Paul Brown, HR Business Manager**  **Elaine Shelton, Staff Side Chair** |
| **4** | **Who else is involved in undertaking this Equality Impact Assessment** | **Employment Policy Group** |
| **5** | **Sources of information used to identify barriers etc**  Prompts: service delivery equality data – refer to equality dashboards ([BI Reporting - Home (sharepoint.com)](https://swyt.sharepoint.com/sites/BIReporting) satisfaction surveys, complaints, local demographics, national or local research & statistics, anecdotal. Contact [InvolvingPeople@swyt.nhs.uk](mailto:InvolvingPeople@swyt.nhs.uk) for insight  **What does your research tell you about the impact your proposal will have on the following equality groups?** | **No information available via trust workforce monitoring data as “trans” is not captured as a category on ESR.**  **Stonewall website Q&A re “how many trans people are there in Britain at the moment?” – accessed May 2022**  **Any other sources are identified in the relevant sections below.** |
| **5a** | **Disability Groups:**  Prompt: Learning Disabilities or  Difficulties, Physical, Visual, Hearing  disabilities and people with long term  conditions such Diabetes, Cancer,  Stroke, Heart Disease etc. Accessible information standard | **It is not expected that there would be any negative impact on staff as a result of the implementation of this policy as it has been developed to provide for a supportive, fair and non-discriminatory approach.**  **If a trans person has been diagnosed as having gender dysphoria and this has a long term adverse impact on their ability to carry out normal day-to-day activities then they may be protected under the provisions of the Equality Act 2010.Trans people who are potentially covered under the Equality Act definition of disability will have those rights expressed more clearly.** |
|  | **QUESTIONS** | **ANSWERS AND ACTIONS** |
| **5b** | **Gender:**  Prompt: Female & Male issues should be considered | **The policy has been developed to provide a framework so that all employees should be acknowledged as the gender in which they wish to present.** |
| **5c** | **Age:**  Prompt: Older people & Young People issues should be considered | **Older people may experience prejudice relating to their age and this may compound their experience of transphobic discrimination. Older people may also find it more difficult to transition due to a proportionately longer period of time not being open about their gender identity and experiencing less engaged societal debate about trans issues.**  **It is not expected that there would be any negative impact on staff as a result of the implementation of this policy as it has been developed to provide for a supportive, fair and non-discriminatory approach.** |
| **5d** | **Sexual Orientation:**  Prompt: Heterosexual, Bisexual, Gay,  Lesbian groups are included in this  Category | **Trans people are often discriminated against on the grounds of their perceived sexual orientation due mainly to misunderstanding of the relationship between sexual orientation and gender reassignment. The terms can mistakenly be used interchangeably. Trans men and women can experience homophobic abuse that compounds the overall experience of discrimination.**  **It is not expected that there would be any negative impact on staff as a result of the implementation of this policy as it has been developed to provide for a supportive, fair and non-discriminatory approach.** |
| **5e** | **Religion & Belief:**  Prompt: Main faith groups and people with no belief or philosophical belief issues should be considered | **According to the Equality Network, around 70% of trans people have no religious beliefs. Their LGBT Equality Report (2015) suggests trans people from certain faith backgrounds will face particular forms of prejudice from within their faith communities. LGBT rights are often contrasted against religious rights despite LGBT people being represented in all faith groups. The report suggest that trans people with faith beliefs are less able to be open about themselves than people with no faith conviction.**  **It is not expected that there would be any negative impact on staff as a result of the implementation of this policy as it has been developed to provide for a supportive, fair and non-discriminatory approach.** |
| **5f** | **Marriage and Civil Partnership**  Prompt: Single, Married, Co-habiting, Widowed, Civil Partnership status are included in this category | **It is not expected that there would be any negative impact on staff as a result of the implementation of this policy as it has been developed to provide for a supportive, fair and non-discriminatory approach.** |
| **5g** | **Pregnancy and Maternity**  Prompt: Currently pregnant or have been pregnant in the last 12 months should be considered | **It is not expected that there would be any negative impact on staff as a result of the implementation of this policy as it has been developed to provide for a supportive, fair and non-discriminatory approach.** |
| **5h** | **Gender Re-assignment**  Prompt: Transgender issues should be considered | **There is no information available in the trusts workforce monitoring data to specifically identify trans staff.**  **Stonewall report: *There isn’t an accurate figure for how big the trans community is. There were no questions about trans identity in the census until this year, and we’re awaiting those results. There also isn’t any existing research that covers enough people to be statistically significant.***  ***The best estimate at the moment is that around 1% of the population might identify as trans, including people who identify as non-binary. That would mean about 600,000 trans and non-binary people in Britain, out of a population of over 60 million.***  **The policy has been specifically developed to provide for a supportive, fair and non-discriminatory approach to Trans issues in the workplace and it is recognised that the law on gender identity is complex and shifting.** |
| **5I** | **Carers**  Prompt: Caring responsibilities paid or unpaid, hours this is done should be considered | **It is not expected that there would be any negative impact on staff as a result of the implementation of this policy. Carers may access additional support through the use of the staff carers passport & advice/guidance/signposting available from the staff carers network** |
| **5j** | **Race**  Prompt: Indigenous population and BME Groups such as Black African and Caribbean, Mixed Heritage, South Asian, Chinese, Irish, new Migrant, Asylum & Refugee, Gypsy & Travelling communities.) | **Trans people may face dual discrimination on the grounds of their race and their gender reassignment. The intersectional nature of discrimination can compound the impact on the individual and it is important to understand the whole person and not a single aspect of their identity.**  **It is not expected that there would be any negative impact on staff as a result of the implementation of this policy as it has been developed to provide for a supportive, fair and non-discriminatory approach.** |

**Action Plan**

EIAs are now reviewed using a grading approach which is in line with our Equality Delivery System (EDS). This rates the quality of the EIA. This means that the team can review the EIA and make recommendations only. The rating and suggested standards are set out below:

* + **Under-developed** – red – **No data**. **No strands** of equality
  + **Developing** – amber – **Some census data plus workforce**. **Two strands** of equality addressed
  + **Achieving** – green – **Some census data plus workforce. Five strands** of equality addressed
  + **Excelling** – purple –**All the data and all the strands** addressed

Potential themes for actions: Geographical location, built environment, timing, costs of the service, make up of your workforce, stereotypes and assumptions, equality monitoring, community relations/cohesion, same sex wards and care, specific issues/barriers.

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Who will benefit from this action?** | **Tick all that apply** | **Action 1:**  **This is what we are going to do** | **Action 2:**  **This is what we are going to do** | **Action 3:**  **This is what we are going to do** | **Lead/s** | **By When** | **Update/review outcome** | **RAG** |
| Age |  | To review the policy in line with the policy review schedule and sooner should any issues or new insight become available, ensuring that individual’s with lived experience are engaged with. |  |  | HR/Staff Side | June 2025 for scheduled review but brought forward as necessary |  |  |
| Disability |  |  |  |  |  |  |  |  |
| Gender reassignment | / |  |  |  |  |  |  |  |
| Marriage and civil partnership |  |  |  |  |  |  |  |  |
| Race |  |  |  |  |  |  |  |  |
| Religion or belief |  |  |  |  |  |  |  |  |
| Sex | / |  |  |  |  |  |  |  |
| Sexual orientation |  |  |  |  |  |  |  |  |
| Pregnancy and maternity |  |  |  |  |  |  |  |  |
| Carers |  |  |  |  |  |  |  |  |

**6. Involvement & Consultation: New or Previous (please include any evidence of activity undertaken in the box below)**

|  |
| --- |
| Initial co-authors of this policy have personal lived experience of trans issues.  The LGBT+ staff network has provided support and feedback on working drafts of the policy and as a result have identified other areas for consideration (which are being taken forward separately) e.g. a scheme to introduce gender neutral toilets.  Other staff with lived experience have been invited to comment/add to the policy.  Formal consultation has taken place via the employment policy group and trust partnership forum. |

|  |
| --- |
| 1. **Methods of Monitoring progress on Actions**   Review of policy based on available insight including engagement with individua’s with lived experience |

|  |  |
| --- | --- |
| |  | | --- | | 1. **Publishing the Equality Impact Assessment**   As an appendix to the policy available on the intranet. | |

|  |  |
| --- | --- |
| |  | | --- | | 1. **Signing off Equality Impact Assessment:**     Greg Moores, Chief People Officer Date: 20th June 2022 | |

***Once approved, you must forward a copy of this***

***Assessment/Action Plan by email to:***

[**InvolvingPeople@swyt.nhs.uk**](mailto:InvolvingPeople@swyt.nhs.uk)

**Please note that the EIA is a public document and will be published on the web.**

**Failing to complete an EIA could expose the Trust to future legal challenge.**

**Appendix 3**

**Version Control Sheet**

*This sheet should provide a history of previous versions of the policy and changes made*

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Version** | **Date** | **Author** | **Status** | **Comment / changes** |
| 1 | 2014 | Claire Hartland, HRBM | V1 Draft | Changes made following consultation with Employment Policy Group |
| 2 | March 2015 | Claire Hartland, HRBM | V2 | Changes made following consultation with Employment Policy Group |
| 3 | May  2020 | Claire Hartland, HRBM | V3 | Policy refresh (draft) |
| 4. | May 2022 | Staff Side & HRBM | Current | Policy review/re-write |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |