Blackpool Teaching Hospitals
NHS Foundation Trust

Gender Reassignment: Support in the Workplace

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Version Control Sheet

This must be completed and form part of the document appendices each time the document is updated and approved

Date dd/mm/yy	Version	Author	Reason for changes
09/04/20	3	Tina Daniels, Equality & Diversity Lead	General review and update

Consultation / Acknowledgements with Stakeholders

Name	Designation	Date Response Received
Staff EDI Ambassadors	ED&I Ambassadors meeting	
ED&II	Equality Diversity and Inclusion Implementation Committee	
Staff Side	JNCC	
Lewis Turner	Lancashire LGBT	
Jayne Taylor	HR Policy Forum	
Anthony West	Horizon Blackpool	

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1 Introduction / Purpose

The aim of this policy is to ensure that no current or prospective members of staff are subject to discrimination or victimisation as a result of the gender in which they present themselves and communicate Blackpool Teaching Hospitals NHS Foundation Trust's commitment to the promotion of equality. The policy seeks to ensure that the provision for Transgender (see section 10 definitions) people is responsive to individual needs; is free from prejudice and challenges the discrimination individuals may experience. The policy will provide a framework for managers and clinical staff to support staff who identify with a gender other than that assigned at birth.

Blackpool Teaching Hospitals NHS Foundation Trust (the Trust) values diversity and is committed to creating equality for all through a positive working environment where all staff are treated with dignity and respect. The Trust wants to enable all staff to fulfil their personal potential; this includes recognising and supporting a person's self-identity as male or female.

The Trust recognises that Transgender staff may experience discrimination and wants to make it clear that it does not tolerate discrimination directly or indirectly against any person including Trans people.

2 General Principles / Target Audience

This policy applies to all those working in the Trust, in whatever capacity. This includes:

- Permanent and temporary staff.
- Staff employed on a contractual basis.
- Volunteers, external members of committees or visitors undertaking work for, in partnership with or on behalf of the Trust.
- People on work placement with the Trust.
- People not employed by the Trust attending Trust training or development courses whether on or off site.
- People on secondment to or from the Trust.
- Office holders such as Governors and non-executive directors.

Failure to follow the requirements of the policy may result in formal investigation and lead to relevant action being taken as considered appropriate.

This may include formal action in line with the Trust's disciplinary procedures for Trust employees; and other action in relation to other workers, which may result in the termination of an assignment, placement, secondment or honorary arrangement.

3 Definitions and Abbreviations

DBS	Disclosure and Barring Service
E&D	Equality and Diversity
Gender	The social and cultural identification and perception of masculinity and femininity as opposed to physical/biological sex. Social gender is the gender in which an individual lives their day to day life. This is likely to affect the name they choose to be called by and their dress.
Gender Identity	Gender Identity describes the psychological identification of oneself as a male or female. It is not necessarily based on biological fact, either real or perceived, nor is it based on sexual orientation.
GOQ	Genuine Occupational Qualification
GP	General Practitioner
GRC	Gender Recognition Certificate
HR&OD	Human Resources, Workforce and Organisational Development
JNCC	Joint Negotiating Consultative Committee
Sex	Sex refers to the male/female biological development. In an infant, the sex is judged entirely on the genital appearance at birth.
Transgender	Currently, it is used as an umbrella term describing those whose gender expression falls outside the typical gender norms.
Trans men and Trans women	The expression Trans is often used to describe transgender in its broadest sense. Sometimes its use is specific; for instance, those assigned female at birth but now identifying as male may be referred to as Trans men; and those assigned male at birth but now identifying as female may be referred to as Trans women. Those who have both socially and medically transitioned may prefer to identify as simply male or female. Those who have both socially and medically transitioned may prefer to identify as simply male or female.
Transsexual	When Gender dysphoria is experienced to the degree that medical intervention is necessary to facilitate a permanent transition to a gender role that accords with the gender identity thus alleviating the intense discomfort, it may be regarded as transsexualism. In the United Kingdom, those who are intending to undergo, undergoing or having undergone gender reassignment, under medical care are protected in law. Those who have changed their role permanently may obtain legal recognition of their new gender status in accordance with the Gender Recognition Act. For the purpose of this document the term Trans and Trans people will be used as it is a more encompassing term and generally accepted by the Trans community. It is considered an umbrella term for all people who cross gender boundaries permanently or not.

Sex Reassignment Therapy	Sex reassignment therapy (SRT) is an umbrella term for all medical procedures regarding sex reassignment of both transgender and intersexual people. Sometimes SRT is also called **gender reassignment**, even though many people consider this term inaccurate as SRT alters physical sexual characters to more accurately reflect the individuals psychological/ social gender identity, rather than vice versa as is implied by the term "gender reassignment." Most people simply call this process **transition**. Sex reassignment therapy can consist of hormone replacement therapy (HRT) to modify secondary sex characters, sex reassignment surgery to alter primary sex characteristics, and permanent hair removal for Trans women. In addition to undergoing medical procedures, transsexual people who go through sex reassignment therapy usually change their social gender roles, legal names and legal sex designation. The entire process of change from one gender to another is known as transition.
Real Life	Generally speaking, physicians who perform sex-reassignment surgery require the patient to live as the members of their target gender in all ways possible for at least a year ("cross-live"), prior to the start of surgery, in order to assure that they can psychologically function in that life- role. This period is sometimes called the Real Life Experience; it is part of a battery of requirements. Other frequent requirements are regular psychological counselling and letters of recommendation for this surgery. This is the start of the transition process from their birth gender to their acquired gender. At this point, they may have records changed to reflect this such as driving license or passport. This period is to allow the person to decide whether they really want to go through transition. Treatment that follows has three components; hormones, surgery and transition.
Transition	Transition is the term used to describe the point at which a change of gender role is undertaken, in all spheres of life—in the family, at work, in leisure pursuits and in society generally. Some people make this change gradually, however, others emerge overnight.
Transphobia	The irrational fear or hatred of transgender individuals.
Sexual Orientation	Sexual orientation is a separate issue from gender identity. Trans people can identify as any sexuality as do cisgender individuals.

4 References and Associated Documents

Unique Identifier	Title and web links from the document library

Unique Identifier	Title and web links from the document library
CORP/GUID/308	Care of Transgender Patients http://fcsp.xfyldecoast.nhs.uk/trustdocuments/Documents/CORP-GUID-308.doc
CORP/POL/532	Recruitment and Selection http://fcsp.xfyldecoast.nhs.uk/trustdocuments/Documents/CORP-POL-532.docx
CORP/PROC/200	Grievance Procedure - Seeking a Resolution http://fcsp.xfyldecoast.nhs.uk/trustdocuments/Documents/CORP-PROC-200.docx
CORP/PROC/208	Prevention of Bullying and Harassment Procedure http://fcsp.xfyldecoast.nhs.uk/trustdocuments/Documents/CORP-PROC-208.docx
CORP/PROC/636	Disciplinary and Appeal Procedure http://fcsp.xfyldecoast.nhs.uk/trustdocuments/Documents/CORP-PROC-636.docx
CORP/STRAT/001	Equality and Diversity Strategy http://fcsp.xfyldecoast.nhs.uk/trustdocuments/Documents/CORP-STRAT-001.doc

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NHS Employers. (2008) Navigating equality and diversity: guidance for the NHS. Available: http://www.nhsemployers.org/~/media/Employers/Publications/Navigating%20equality%20and%20diversity.pdf. Accessed: 24/01/2017
http://www.transgenderzone.com/ . Last accessed 24/01/2017.
http://www.pfc.org.uk/node/235 - A guide to the Sex Discrimination (Gender Reassignment) Regulations 1999
http://www.unison.org.uk/file/A3226.doc - Unison Document: 'Bargaining for Transgender Workers' Rights' April 2007
http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidelines/DH_089941 - Trans: A Practical Guide for the NHS (2008), Department of Health.
Human Rights in Healthcare, Department of Health (2007)
Whittle, S., Turner, L., Al-Alami, M., Engendered Penalties, Equalities Review (2007)

Whittle, S. et al (2008), Transgender Eurostudy: Legal Survey and Focus on the Transgender Experience of Healthcare, Corelio Printing, Belgium.

5 Responsibilities (Ownership and Accountability)

5.1.1 The Role of the Trust Board

The Board (and the Trust Senior Management Team) has a responsibility to develop a culture and climate in which employees can excel at work and maximise their potential regardless of their transgender status and free from any form of bullying and harassment behaviour.

5.1.2 The Role of the Director of HR & OD

To oversee the introduction, operation and monitoring of the policy

5.1.3 The Role of the Equality and Diversity Lead

The Equality and Diversity (E&D) Lead is responsible for providing appropriate advice and guidance to all staff across the Trust on the use of the policy and its application generally and specifically (i.e. individual cases). HR will provide an advisory role to managers in respect of the procedure and will assist to identify appropriate solutions.

5.1.4 The Role of the Manager

Managers and supervisors are responsible for ensuring that harassment and bullying does not occur in their work area. This includes acting as a role model in terms of appropriate behaviour.

5.1.5 The Role of Individual Staff

Every employee has a personal responsibility for their own behaviour and must treat their colleagues with respect and fairness regardless of their colleague's gender, sexual orientation, race, nationality, age, disability, religion or beliefs.

All employees must observe the privacy of transsexual men and women afforded by the Gender Recognition Act 2004. Breaches of confidentiality will be treated in accordance with the Trust's Disciplinary Policy and Procedure.

6 Main Part of the Procedural Document

6.1 Recruitment and selection

There is no barrier to a person who identifies as Trans from applying for employment within the Trust. All those involved in the recruitment and selection process should be made aware of their responsibilities to select fairly and without prejudice.

6.1.1 Confidentiality within the recruitment and selection process

The Trust will respect the confidentiality of all transgender staff and will not reveal any information without the prior agreement of the individual. Applicants do not have to disclose their transgender status during the recruitment and selection process including at interview, or as any condition of employment.

If applicants choose to disclose their status this must not be used as a reason for not offering the person employment with the Trust and also non-disclosure or subsequent disclosure are not grounds for dismissal.

6.2 Disclosure and Barring Service (DBS)

Staff who work in the NHS are required to have a DBS check. Part of this process involves a strict requirement for applicants to state all previous names and aliases. DBS checks however should not be a problem for Trans people. The DBS has a confidential checking process for Transgender people applications who do not wish to reveal details of their previous identity to the person who asked them to complete an application form for a DBS disclosure. The applicant may wish to contact DBS customer services 0151 676 1452 to discuss this matter in confidence.

- Trans applicants for a DBS disclosure should contact DBS on the above number to clarify anything they are not sure about and ensure that the DBS know they will be using the confidential checking process.
- The Trans applicant should complete the form presented by their employer in the normal way, except that they need not complete details (or supply forms of evidence) that would expose their gender history to their employer.
- If they wish to leave out details that could disclose their previous gender or “out” them then they should photocopy the form, ensuring they have a clear record of the application serial number.
- The applicant should then immediately contact the DBS in Liverpool on the number above and notify them of the application number.
- The special security section of the DBS in Liverpool then have the means to intercept the application that was forwarded by the employer. They will ask the applicant to supply the information needed to replace that which was omitted.
- This is then married up so that a rigorous criminal records check can be carried out in the same way as for any other applicant.
- Disclosures sent to the employee and their employer will not reveal the applicants former identity **unless** they have an offence or caution that has been recorded in that name in Police records. In this case there is no way of avoiding the disclosure of that former identity to the employer.
- If the offence itself is not serious enough to preclude employment, reassurances should be given to the applicant /member of staff in this event.

6.3 Legislation - The Equality Act 2010

6.3.1 Sex Discrimination

Under the Equality Act 2010 it is unlawful for employers to discriminate on grounds of sex, marriage, pregnancy and maternity leave or because someone intends to undergo, is undergoing or has undergone, gender reassignment.

6.3.2 The Sex Discrimination (Gender Reassignment)

Sex Discrimination (Gender Reassignment) amended the Sex Discrimination Act 1975 and was extended to prohibit discrimination on the grounds of gender reassignment in both employment and vocational training.

In employment and vocational training, the Equality Act 2010 protects individuals who are discriminated against because they:

- Intend to undergo gender reassignment
- Are currently undergoing gender reassignment
- Have already undergone gender reassignment.

6.3.3 Gender Recognition

The Equality Act 2010 gives transsexual people legal recognition as members of the sex appropriate to their gender (male or female) allowing them to acquire a new birth certificate, affording them full recognition of their acquired gender in law for all purposes, including marriage.

People present evidence to a **Gender Recognition Panel**, which considers their case and issues a **Gender Recognition Certificate**. If the person involved is in a legally recognised marriage they will be issued an “Interim Gender Recognition Certificate”, which can then be used as grounds for annulment of the marriage, but otherwise has no status. After annulment, a full Certificate will be issued.

The Act requires applicants to have transitioned two years before a certificate is issued. It makes no requirement for gender reassignment surgery to have taken place, although such surgery will be accepted as part of the supporting evidence for a case where it has taken place. A birth certificate drawn from the Gender Recognition register is indistinguishable from any other birth certificate, and will indicate the new legal gender and name.

The Gender Recognition Act 2004 now part of the Equality Act 2010 safeguards the privacy of transsexual men and women by prohibiting the disclosure of information acquired in an official capacity relating to a gender recognition certificate or about the gender history of a successful applicant. It is a criminal offence to disclose such information and subject to a maximum £5000 fine. It is not, however, an offence to disclose ‘protected information’ if the person cannot be identified or if the individual gives their consent.

However, it should be recognised that to even publicly acknowledge that there is a transsexual employee could result in 'outing' them.

6.3.4 Gender Recognition Certificate

A person who completes their transition and meets certain criteria may apply for a Gender Recognition Certificate (GRC). This certificate is issued by the Gender Recognition Panel under the Gender Recognition Act 2004 now part of the Equality Act 2010.

It is unlawful to ask for a Gender Recognition Certificate as once a person has obtained their certificate they do not have to disclose their past gender to anyone. It can take several years for a person to obtain a GRC and in order to qualify they must live permanently in their new gender role for at least two years. Once a person has a full GRC they are recognised in their new acquired gender for all purposes.

6.3.5 Human rights Act 1998

The Human Rights Act 1998 gives further legal effect in the UK to the fundamental rights and freedoms contained in the European Convention on Human Rights 1950. These rights not only impact matters of life and death, they also affect the rights you have in your everyday life: what you can say and do; your beliefs, your right to a fair trial and other similar basic entitlements.

6.3.6 Genuine Occupational Qualification (GOQ)

Following legal recognition of an individual, the entire body of employment law must be interpreted on the basis that Trans people are regarded for all purposes as a member of the acquired gender.

If the single sex GOQ applies to a post and the job holder changes gender then it is reasonable for an employer to reconsider the continuation of the job holder within the post. The employer must show that they have treated the individual reasonably in all circumstances.

6.3.7 Equality Act 2010

The Equality Act 2010 came into force on 1st October 2010 and defines gender reassignment as a protected characteristic. People who are proposing to undergo, are undergoing or have undergone a process (or part of a process) to reassign their gender by changing physiological or other attributes of sex have the protected characteristic of gender reassignment.

6.4 Implementation

All staff have a responsibility to ensure that they are aware of Trust documents which are relevant to their area of work and that they act in accordance with these at all times.

Line managers have the responsibility to cascade this information to the staff they manage. Line managers must ensure that departmental systems are in place to enable all staff including agency staff access to relevant policies, procedures, guidelines and

protocols and to remain up to date with the content of new and revised policies, procedures, guidelines and protocols.

6.5 Monitoring

The Equality and Diversity Lead will review this policy every 36 months to ensure it is in line with current legislation and national guidance to minimise any risk and potential adverse consequences for the Trust.

The Equality and Diversity Lead will ensure that monitoring of this policy is undertaken annually and that any action plan is implemented and reported to the authorising group. Monitoring of this policy will consist of an audit review of incidents of non-compliance with this policy and development of any subsequent action plan.

6.6 Further Information

6.6.1 Press for Change

Press for Change is a political lobbying and educational organisation that campaigns to achieve equal civil rights and liberties for all transgender people in the UK through legislation and social change. www.pfc.org.uk

The Gender Trust is recognised as an authoritative centre for professional people who encounter gender identity-related issues in the course of their work. This group includes employers, human resource officers, health workers and information services. www.gendertrust.org.uk

Support services in Blackpool are available at HORIZOB LGBTQ+ which is a local authority funded service that can offer support and signposting to anyone from the LGBTQ+ community over the age of 16.

Appendix 3: Equality Impact Assessment Form

Department	HR & OD	Service or Policy	Gender Reassignment Support in the Workplace	Date Completed:	9 April 2020

GROUPS TO BE CONSIDERED

Deprived communities, homeless, substance misusers, people who have a disability, learning disability, older people, children and families, young people, Lesbian Gay Bi-sexual or Transgender, minority ethnic communities, Gypsy/Roma/Travellers, women/men, parents, carers, staff, wider community, offenders.

EQUALITY PROTECTED CHARACTERISTICS TO BE CONSIDERED

Age, gender, disability, race, sexual orientation, gender identity (or reassignment), religion and belief, carers, Human Rights and social economic / deprivation.

QUESTION	RESPONSE		IMPACT	
	Issue	Action	Positive	Negative
1.What is the service, leaflet or policy development? What are its aims, who are the target audience?	To highlight the need to support staff going through gender reassignment. The aim of the policy is to give guidance and support to staff and managers.	Review current procedure and raise awareness of the needs of the staff	Eliminate or reduce health inequalities when in employment or accessing services.	
2.Does the service, leaflet or policy/ development impact on community safety • Crime • Community cohesion	There is no perceived impact on community safety, crime or community cohesion as the policy is for staff only.	N/A	N/A	
3.Is there any evidence that groups who should benefit do not? i.e. equal opportunity monitoring of service users and/or staff. If none/insufficient local or national data available consider what information you need.	No evidence to show those who should benefit do not. This policy was written in response to recognition the Trust did not have a policy for supporting staff through gender reassignment.	Policy will raise awareness of the need to support colleagues through challenging times. Monitoring reasons for leaving the Trust.	Reduce inequalities, increases employee awareness and create a positive approach to supporting staff and colleagues.	
4.Does the service, leaflet or development/ policy have a negative impact on any geographical or sub group of the population?	There is potential for this policy for a negative impact towards transgender staff if not mitigated or eliminated.	Partnership working with a specialist in this field has reduced or eliminated any potential negative impact. Training on Transgender being set up for staff.	To give support to staff who are gender reassigning and putting a support framework in place	
5.How does the service, leaflet or policy/ development promote equality and diversity?	Potential for discrimination and exclusion due to lack of understanding and respect for the individual	To raise awareness of all staff of the support and respect towards colleague when reassigning	To support staff who are gender reassigning without discriminating	
6.Does the service, leaflet or policy/ development explicitly include a commitment to equality and diversity and meeting needs? How does it demonstrate its impact?	To give a commitment to support those who are going through gender reassignment. The impact of this policy will show by having no discrimination towards the person trans gendering.	To give all staff an understanding of how best to support colleagues going through gender reassignment	Greater support and commitment from staff to trans gender colleagues	
7.Does the Organisation or service workforce reflect the local population? Do we employ people from disadvantaged groups?	To improve how we work with diverse groups to encourage applications for employment with the Trust	To monitor local demographics so the Trust can respond accordingly to any impact on changes in employee ratios	To review and enhance ongoing work with minority groups	
8.Will the service, leaflet or policy/ development i. Improve economic social conditions in deprived areas ii. Use brown field sites iii. Improve public spaces including creation of green spaces?	N/A	N/A	N/A	

Appendix 3: Equality Impact Assessment Form

9.Does the service, leaflet or policy/ development promote equity of lifelong learning?	N/A	N/A	N/A	
10.Does the service, leaflet or policy/ development encourage healthy lifestyles and reduce risks to health?	No	N/A	N/A	
11.Does the service, leaflet or policy/ development impact on transport? What are the implications of this?	No	N/A	N/A	
12.Does the service, leaflet or policy/development impact on housing, housing needs, homelessness, or a person's ability to remain at home?	No	N/A	N/A	
13.Are there any groups for whom this policy/ service/leaflet would have an impact? Is it an adverse/negative impact? Does it or could it (or is the perception that it could exclude disadvantaged or marginalised groups?	To have a positive impact for transgender staff. This policy assists in making the workplace more inclusive. The policy should not exclude, disadvantage or marginalise any group of people especially trans gender people.	To raise awareness for all staff of the support within the Trust for transgender staff	To ensure positive approach to supporting transgender staff in the workplace	
14.Does the policy/development promote access to services and facilities for any group in particular?	N/A from an employees' perspective	N/A	N/A	
15.Does the service, leaflet or policy/development impact on the environment • During development • At implementation?	The policy does not impact on the environment during development or at implementation	N/A	N/A	

ACTION:			
Please identify if you are now required to carry out a Full Equality Analysis		**No**	**(Please delete as appropriate)**
Name of Author: **Signature of Author:**	Tina Daniels	**Date Signed:**	09/04/2020
Name of Lead Person: **Signature of Lead Person:**	Tina Daniels	**Date Signed:**	09/04/2020
Name of Manager: **Signature of Manager**		**Date Signed:**	