

Guidance on trans equality in post-school education

THE FORUM ON SEXUAL ORIENTATION AND
GENDER IDENTITY IN POST-SCHOOL EDUCATION





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Introduction

Trans equality matters in post-school education. Our education institutions should be places where all can learn or work with dignity and respect.

The 2006 Equality Act requires all public bodies, including training and education providers, to take positive steps to combat unlawful discrimination and harassment in employment and vocational training on grounds of gender reassignment.

The act applies irrespective of whether or not the institution is aware of staff or students directly affected by gender reassignment.

Trans people have high levels of unemployment and self-employment and, for those who are employed, incomes are well below the average. These high levels of workplace discrimination across all sectors give further education (FE) and higher education (HE) institutions an additional and significant responsibility for ensuring that trans people's needs are met and that they feel supported and safe in your learning establishment.

Recent research has shown that many trans people are 'second chancers' in the education system. They may have left school early following transphobic bullying. Prejudice and discrimination in the workplace may then lead them to re-enter education or to seek employment in the education sector, as further and higher education institutions may be perceived as places of tolerance and understanding. Research shows that a higher percentage of trans people have A level equivalent or degree qualifications than the national average.

In addition, a person must be in either full-time paid or voluntary work, or full-time education or vocational training, to obtain irreversible gender reassignment treatment on the NHS. Further and higher education can be a vital lifeline for someone seeking approval for their treatment.

UK legislation gives:

- protection from discrimination and harassment on grounds of gender reassignment in the workplace and vocational training, including courses in FE and HE
- the right for people to apply for full legal recognition in their acquired gender and privacy rights as to their gender history
- protection from discrimination and harassment on grounds of gender reassignment in the provision of goods, services and facilities.

In April 2007, the Forum on Sexual Orientation and Gender Identity in Post-School Education was established, bringing together relevant bodies in further and higher education. Its aim is to co-ordinate work on sexual orientation and gender identity equality and to share expertise. This guide has been commissioned by that Forum, whose members include:

- Association of Colleges (AoC)
- Association of Teachers and Lecturers (ATL)
- Centre for Excellence in Leadership (CEL)
- Equality Challenge Unit (ECU)
- Learning and Skills Council (LSC)
- Lifelong Learning UK (LLUK)
- National Union of Students (NUS)
- UNISON
- University and College Union (UCU).

Press for Change, a trans equality group, was commissioned to develop this guide and its content is based upon advice issued by forum members and the Scottish Transgender Alliance. The guide's aim is to ensure that trans equality is embedded in all policies and practices in post-school education. It is relevant for education providers, managers, students' unions and trade unions.

This guide provides background information, practical advice and examples of best practice, so that your learning establishment can take the positive steps required to fulfil your legal requirements and provide a positive environment for trans workers and students.

Summary of key points

- A small number of people find the gender they are assigned at birth does not match their gender identity, ie their internal sense of where they exist in relation to being female or male. Different terms are used to describe the range of people whose gender identity is different from their birth label. The most common umbrella term is transgender people or trans people.
- The key concept in equality for trans people is respect – respect for their gender identity, for their right to work or study with dignity, for their name and personal identity, for their privacy and confidentiality.
- All trans people should be treated as the gender in which they are working or studying, irrespective of their legal gender.
- There is a strong educational and business case for equality.
- Gender reassignment is the process of transition that a person goes through when they change from being the gender they were assigned at birth – either male or female – to living permanently and completely in the gender with which they identify.
- Transsexual people – those who seek to undergo, are undergoing or have undergone gender reassignment – are the group of trans people who have most protection in UK law.
- In the UK, it is possible to gain full legal recognition for your change of gender.
- It is a criminal offence to pass on information about a trans person's gender recognition without their consent.
- No one is obliged to undergo surgery to obtain legal recognition in their preferred gender. People can obtain a Gender Recognition Certificate while waiting for surgery or if they are unable to have surgery.
- It is good practice to extend equality measures to all trans people, whether or not they undergo permanent gender reassignment or apply for legal recognition.
- Education providers in post-school sectors have a legal duty to take active steps to prevent discrimination and harassment on grounds of gender reassignment.
- The Gender Equality Duty in the Equality Act 2006 applies whether or not an institution has known that staff or students are directly affected by gender reassignment.
- Education providers should have specific policies and procedures to support trans staff and students, including those undergoing the process of gender reassignment.
- Equal opportunities, recruitment and harassment policies should make specific reference to trans equality.
- Other policies and practices should be assessed for their impact on equality for trans staff and students.
- Trans equality should be included in all induction and training.
- Education institutions should publicise their commitment to trans equality.
- Education institutions, students' unions and trade unions should work in partnership to achieve best practice in equality for trans staff and students.





Background Information

Every person is assigned a gender at birth – male or female. A small number of people find the gender they are assigned does not match their gender identity – their internal sense of where they exist in relation to being female or male. A wide variety of terms can be used to describe a person whose gender identity is different from their birth label. The most common umbrella term is transgender people or trans people.

As trans issues have become more widely acknowledged, new language has developed. Not everybody agrees on the exact use of different terms, but what follows are the most common definitions currently in use. Transgender, trans, transsexual and transvestite are all terms used as adjectives, and should always be followed by man, woman, person or community.

Transgender or trans people

Transgender or trans are inclusive umbrella terms used for those who cross the conventional boundaries of gender. This can range from clothing and how someone dresses or behaves to someone having multiple surgical procedures so that their body is fully reassigned in their preferred gender role.

Some people identify as transsexual (see below) and undergo gender reassignment to live permanently in the opposite gender. Others do not feel comfortable thinking about themselves as simply either male or female. They may identify as androgyne, third or fourth gender or as having no gender. Some will live in more than one gender role.

Transsexual people

Some trans people identify as transsexual and have a deep conviction that their gender identity does not match that of their appearance or anatomy. The medical term for this is gender dysphoria. Eventually, this may lead them to permanently present to the world in the opposite gender to the one they were assigned at birth. This process is referred to as gender reassignment or transition. The majority undergo hormone therapy and are prescribed oestrogens or testosterone, depending on their birth gender. Many will also undergo some surgery to bring their bodies in line with their gender identity.

Transsexual people – those who seek to undergo, are undergoing or have undergone gender reassignment – are the group of trans people who have most protection in UK law.

Although most people undergoing gender reassignment do have medical treatment, this is not necessary to achieve the protection of the law.

Trans men/trans women

Some people describe themselves as ‘TS’ or ‘man/woman with a transsexual background’, or simply as a man or a woman. When a trans person, registered at birth as female, starts living any part of their life in their preferred gender, they are referred to as a trans man. Similarly a person registered at birth as male, who starts living any part of their life in their preferred gender, is referred to as a trans woman. Some simply use the term trans.

It is essential to refer to trans people by the gender in which they live, rather than by their birth gender.

The way people describe themselves says little about whether or not they live full-time in their preferred gender role, have undergone or intend to undergo surgery or hormone therapy, or have a gender identity that does not fit the binary model. When transitioned people describe themselves as simply ‘men’ or ‘women’, it is disrespectful to call them ‘trans’ or ‘transsexual’ against their wishes.

Transvestite people/cross-dressing people

Some people – usually men – dress on occasion as the opposite gender for emotional satisfaction or erotic pleasure. Most people who cross-dress are happy with their birth gender and have no wish to permanently alter their physical characteristics. However, they may identify as part of the trans community and may experience discrimination.



Transition is like dropping a pebble into a pond. The ripples affect your family, friends, work colleagues, fellow students, neighbours, even your bank manager. Transition means coming out to everyone.



Numbers of trans people

It is estimated that there are between 15,000 and 45,000 trans people in the UK, according to the trans equality group, Press for Change. These figures include about 6,000 people who have transitioned to live permanently in their preferred gender, or are in the process of doing so.

Many more trans people do not undergo gender reassignment because they fear losing their jobs or family. The research report *Engendered Penalties* (see Further reading, page 34) found that 46% of respondents to a survey, who were not living permanently in their acquired gender, intend to do so in the future. Of those, 41% said that their job or workplace was preventing them from doing so.

Some trans people live part-time in their preferred gender for many years until the need to undergo permanent gender reassignment becomes too strong. This may be at any age.

There is a common misconception about transsexual people that there are many more trans women than trans men. This used to be the case, as statistically the ratio of trans women to trans men was approximately 3:1, but it is now moving towards an equal ratio of 1:1.

Trans people and sexual orientation

Some people mistakenly assume that the term 'transsexual' is about change relating to sexual orientation. However, a change of gender presentation rarely has anything to do with a person's sexual orientation. Being trans is an issue of gender identity – sexual orientation is about who a person is attracted to. The myth that a person changes sex in order to have a sexual relationship with a person of their 'birth gender' has been shown to have no truth at all. Trans people – like all people – can be lesbian, gay, bisexual or heterosexual.

Gender reassignment or transition

Gender reassignment refers to everything involved when someone changes the gender they were assigned at birth, not merely – or necessarily – to surgical procedures. It is a complex process and involves changing all state documentation: National Insurance and tax records, passports, driving licences, medical cards. The Gender Recognition Act also enables birth certificates to be changed.



Name change

The first step for someone wishing to change their gender is often a visit to the family doctor, followed by a consultation with a medical expert in gender identity health. It then involves changing one's name, unless the previous name was not gender specific.

In the UK:

- a person's name can be changed at any time
- a person can have a number of names and 'identities', as long as they are not used for fraudulent purposes
- a person may have more than one legal identity at the same time
- a person can choose to have all or any aspects of their private or public life, for example, bank accounts or tax records, managed in any identity, or more than one, as long as this is not for fraudulent purposes.

A doctor's letter saying that a person is intending to permanently change their gender, together with proof of their name change – for example a statutory declaration or deed poll – can be used to change all public and private documents. This includes the titles Mr, Mrs, Miss or Ms, without, or prior to, undergoing any surgery.

The only document that cannot be changed at this stage is the person's birth certificate.

In the UK, if someone undergoing gender reassignment needs to prove their identity then a passport or other documentation should suffice – it should not be necessary to produce a birth certificate.

Medical assistance in gender reassignment

Gender reassignment is not easy. People have to undergo psychiatric assessment and a 'real life experience', where they have to prove that they can live full-time in their preferred gender for a year, before they can be referred to a waiting list for NHS gender reassignment surgery. Funding restrictions and capacity issues in specialist clinics can lead to much longer waits.

Choosing the extent of treatment is very much a personal matter. It also depends upon a person's age, fitness and their access to funding. Treatment may include the

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People need to be prepared for the emotional side of the hormones – for me it felt like going through a second puberty.

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removal of body and facial hair, speech therapy, hormone treatment and surgery. Options for male to female trans people differ from options for female to male trans people. Appointments to see specialists may involve long distance travel, so may take all day. Some treatments may have unwanted side effects.

All surgeries are potentially dangerous – some more so than others. Some people are not eligible for surgery on health grounds. No one is obliged to undergo surgery to obtain legal recognition in their preferred gender. People can still obtain a Gender Recognition Certificate (GRC) while waiting for surgery or if they are unable to have surgery.

The wait for reassignment surgeries on the NHS is often between two and six years. Some local health authorities do not fund treatment on budget grounds. The only option for some people is to move or choose private treatment. Some even travel overseas for treatment, where it can be substantially cheaper.

Gender reassignment surgery may require just one operation, but may involve as many as six or more operations. Between surgeries, many people want to minimise their time off and keep working, although this will depend upon their post-surgical recommendations.

People usually wish to undergo gender transition treatment as quietly as possible. A significant number may risk rejection from their families, spouses or children or lose their homes when they decide upon transition. Many people experience prejudice from some individuals and institutions. (See Further reading, page 34, for research findings.)



Current law and legal obligations

This section includes advice and information about laws, guidelines and recommendations that apply to trans people as workers and as learners. Current legislation is framed in terms of gender reassignment. However, good practice in post-school education should be extended towards all trans workers and learners.

Sex Discrimination Act 1975 (SDA) as amended by Sex Discrimination (Gender Reassignment) Regulations 1999

In employment and vocational training, it is unlawful to discriminate on the grounds of gender reassignment. Vocational training includes further education (FE) and higher education (HE). This means that it is unlawful to treat a person less favourably than you treat or would treat other persons, on the grounds that the individual “intends to undergo; is undergoing or has undergone gender reassignment” (Section 2A, SDA).

Gender reassignment is defined as:

“...a process which is undertaken under medical supervision for the purpose of reassigning a person’s sex by changing physiological or other characteristics of sex, and includes any part of such a process” (Section 82, SDA).

Less favourable treatment could include:

- not making a job or study offer, not promoting a person or dismissing them
- unfair work allocation or supervision
- denial of benefits
- less favourable time off for gender reassignment treatment than is given for other absence due to sickness or injury.

This protection starts from the moment a person indicates their intention to start the gender reassignment process, even if they subsequently change their mind.

The SDA also places a duty on FE and HE institutions to protect workers and learners from harassment and victimisation on the grounds of gender reassignment. Harassment is unwanted conduct that has the purpose or effect of violating the person’s dignity or creating an

intimidating, hostile, degrading, humiliating or offensive environment for the person.

Examples of such harassment include:

- spreading malicious gossip
- refusing to address a trans person by their preferred name and correct gender pronouns
- transphobic comments and ‘jokes’
- sexual harassment
- persistent, inappropriate personal questioning.

Victimisation is when a person is treated detrimentally because they have made a complaint of discrimination, intend to make a complaint, or give evidence relating to someone else’s complaint.

The employer is liable for discriminatory acts by anyone acting on their behalf, whether or not it was done with their knowledge, unless the employer can show they had taken reasonable steps to prevent such actions.

Where a person has undergone gender reassignment, that person has the protection of the SDA under their new gender identity.

There is no requirement for a trans person to disclose their gender history as a condition of employment. However, if they do choose to do so, it is unlawful to use this as a reason for not offering them the job. Similarly, it is unlawful to dismiss someone for not disclosing their gender history or for disclosing this at a later date.

The law protects past workers and students, as well as applicants and current workers and students. References for former staff or students who have transitioned should not include a person’s former name or gender and should use the appropriate pronouns for their current gender.

In the case of institutions that award their own degree and other certificates, a person who studied there in their previous gender may request that a new certificate or certificates are issued with their new name. This is a straightforward process and it is unreasonable to refuse this request. Most institutions ask to see a statutory declaration or deed poll with the change of name and a letter from a psychiatrist or GP stating that the gender change is permanent. This is normal practice.

These are the same documents that the Passport Agency and the DVLA request when they are asked to change a person's gender and name.

Genuine occupational qualifications

In the vast majority of cases, the gender of a worker is of no relevance. However, there is an exception to sex discrimination legislation for 'genuine occupational qualifications' (GOQs). This is where employers can justify employing people of only one sex in a particular job because of the specific needs of the post, for example a male care assistant who helps other men dress. Thus, a male-to-female trans woman employed as a male care assistant would need to be redeployed when they transition.

GOQs apply to selection arrangements, offers of employment, promotion, job transfer and training.

If a person gains a Gender Recognition Certificate (GRC), their acquired gender is legally recognised for all purposes. This means that a female-to-male trans man with a GRC can apply for a job where being male is a 'genuine occupational qualification' (for example as a male care assistant).

Pensions

Women born before 1950 can claim their state pension at 60 years. Everyone born after April 1955 receives it at 65 years. Pension entitlements relate to a person's legal gender and these change only when a person obtains a GRC. The person concerned should inform their pension provider when they receive a GRC. If a person retires earlier than others of their gender because of their legal sex, employers should keep this confidential.

National Insurance records, apart from birth sex, are changed at the time of a name change. People will be referred to in their new gender pronouns by HM Revenue and Customs, but they will still be members of their original birth gender for National Insurance purposes, unless and until they have a GRC.

Summary: policy requirements

Education establishments are required to:

- make specific reference to equality for trans workers and students/learners in equal opportunities and harassment policies
- develop a specific policy for workers and students/learners, who are undergoing gender reassignment
- grant time off for gender reassignment treatment (not just surgery) on the same basis as other time off for sickness or injury
- treat trans abuse and harassment, including derogatory jokes and intrusive questions, as serious disciplinary offences
- deal immediately and sympathetically with harassment and bullying
- remove all transphobic materials from institutions
- encourage job and student applications from the trans community
- review recruitment policies and practices.

Gender Recognition Act 2004

The Gender Recognition Act 2004 enables people who meet the requirements of the Act to change their legal gender. This includes the right to a new birth certificate, if the birth was registered in the UK, and provides recognition of a person's acquired gender for all legal purposes. This means that the person must be regarded as their acquired gender in all aspects of life.

Under the Gender Recognition Act 2004, people who are at least 18 years of age are eligible to formally apply for a GRC, if they have:

- officially changed their name, if necessary
- been living full-time in their acquired gender for over two years and intend to do so permanently
- been diagnosed as having gender dysphoria.

It should be noted that surgery or any other gender reassignment treatment, such as hormone therapy, are not a pre-requisite to obtaining a GRC.

The GRC is a legal document issued by the Gender Recognition Panel, which is part of the tribunals service. This panel is made up of judicially trained legal and medical members, who are responsible for assessing applications from trans people for legal recognition of the gender in which they now live. If a person is successful in their application to the panel, they will be issued with a GRC. Once a person has their GRC, they must be regarded as a member of their acquired gender for all purposes. This includes all legal records.

A person born outside of the UK can apply for gender recognition, but will not be able to use the GRC to change their birth certificate. They may be able to change their birth certificate in their home country, but in about half of the world's countries this is still not possible.



Not all trans people have GRCs, for example:

- Many trans people will not fulfil all the requirements for gender recognition – they may not be able to or want to undergo permanent gender reassignment for personal, family, financial or other reasons.
- A person who was married in their previous gender, before undergoing gender reassignment, may not apply for a full certificate without dissolving their marriage. However it is possible to get an interim certificate, dissolve the marriage and then enter into a civil partnership with the same person on the same day.
- Some people are not aware of the benefits of having a GRC.

Many organisations and institutions wrongly assume that GRCs are issued as 'proof' of gender reassignment. This is not the case. Most documentation will already have been changed before a person even applies for a GRC.

To ask a trans person to produce a GRC before official records can be changed is the equivalent of asking someone to produce a full driving licence before a provisional licence can be issued.

Privacy rights

Section 22 of the Gender Recognition Act 2004, gives people applying for or in receipt of a GRC extended privacy rights.

Knowledge about a person's gender recognition is regarded as 'protected information'. Anyone who acquires such knowledge in the course of their official duties and then passes it on to a third party without the trans person's consent, may be prosecuted and fined up to £5,000 and/or be imprisoned for up to six months.

Official duties include employment, supply of services (including education) and union organisation or representation.

It is imperative that anyone who acquires such knowledge knows their legal liabilities and is aware that disclosure, even to a line manager, could mean they have committed a criminal offence under section 22 of the Gender Recognition Act 2004.

This means that if you tell anyone – for example another colleague – that a member of staff or student/learner is a transsexual, ‘used to be a man/woman’ or ‘had a sex change’ then you are at risk of criminal prosecution.

People have no obligation to disclose whether they have a GRC. The whole purpose of the law is to provide privacy (which is not the same as secrecy). In order to stay on the right side of the law, it is best to assume that a trans person has a GRC, unless you know they have only very recently started living in their new gender. Even then, it is best practice to afford all trans people the same confidentiality rights that some are entitled to, under the Gender Recognition Act.

Ensuring confidentiality requires particular attention to record keeping, particularly old records. Records that refer to a previous name/gender should be destroyed. If they must be kept and cannot be updated, their security must be ensured.

If there is a ‘need to know’ basis for information to be passed on, this must be with the agreement of the trans person, preferably in writing, for the specific circumstances.

If your organisation has not updated all records correctly, and accidentally or otherwise sends correspondence to another party identifying a person’s previous gender identity, then you are at risk from prosecution.

Summary: policy requirements

Education establishments should:

- not request a birth certificate for identification purposes – a passport will suffice
- destroy all information regarding a person’s previous gender identity. If this is not possible, only restricted access should be permitted
- encrypt any information stored on a computer. This information should not be transferable to a lap top, which could be taken out of the offices
- place any paper documentation that cannot be destroyed in a sealed envelope and attach it to a new file, clearly marked as confidential and for the attention of the appropriate person, which for staff will be the HR manager

- identify a member of staff responsible for this process, who is tasked with updating all records (including old records) in a systematic and timely way
- acquire written permission before disclosing to a third party.

Criminal records

The Criminal Records Bureau (CRB) has a process in place for people who have changed gender, which protects their confidentiality with employers while enabling the necessary checks against their previous name. The person fills in a disclosure application form and, at the same time, writes separately to a nominated person at the CRB, known as a sensitive casework manager, notifying them of their previous names.

The Equality Act 2006 – Gender Equality Duty

The Gender Equality Duty (GED) requires all public bodies – including further and higher education institutions and other learning and training providers to:

- eliminate unlawful discrimination and harassment
- promote equality of opportunity between men and women, including transsexual men and women.

This is known as the ‘general duty’ and came into force on 6 April 2007. Under the general duty, further and higher education institutions are required to be proactive. This means they must actively promote equality between trans people and non-trans people of any gender. Prior to this, the onus was on individuals who were discriminated against to make complaints to employment tribunals. Now the onus is on the public bodies to take action to prevent discrimination.

In addition to the general duty, the law places a number of specific duties on public bodies. Education establishments are required to:

- prepare and publish a Gender Equality Scheme showing how they intend to fulfil the general and specific duties and set out their gender equality objectives

- gather and use information on how the institution's policies and practices affect gender equality in the workforce and in the delivery of services
- consult workers, students and other stakeholders and take account of relevant information in order to determine their gender equality objectives
- carry out impact assessments to assess the impact of current and proposed policies and practices on gender equality
- implement the actions set out in their Gender Equality Scheme within three years
- report against the scheme every year and review the scheme at least every three years.
- build trans equality into induction and training for staff including, for example, training on combating harassment
- consult members of the trans community/trans staff and learners on the drafting and implementation of Gender Equality Schemes.

Sex Discrimination Act (Amendment of Legislation) Regulations 2008

The Sex Discrimination Act (Amendment of Legislation) Regulations 2008, make it unlawful for providers of goods, facilities and services to discriminate against or harass people on grounds of gender reassignment. These regulations were introduced to bring the UK in line with the European Union Gender Directive and their scope is limited to the scope of the Directive. For this reason, they do not cover education and vocational training. However discrimination on grounds of gender reassignment in vocational training, which protects students on higher and further education courses, has been banned since 1999, along with the ban on employment discrimination. The regulations do cover the provision of goods and services in all other sectors, private and public.

Those in positions of leadership, for example chief executives/principals and corporation members/governors, have legal responsibility for ensuring that the GED is core to all aspects of the organisation. They must ensure that policies, action plans and monitoring systems are developed to deliver gender equality, which includes trans workers and learners.

The GED also applies to private or voluntary sector organisations that carry out public functions. There is some ambiguity about whether or not the duty applies to students' unions. However, the National Union of Students (NUS) and the Association of Managers of Students' Unions (AMSU) both advise that students' unions should act as if the duty does apply. Students' unions have a vital role to play in the representation of trans students and in creating an environment in which all students can thrive. The duty does not apply to trade unions, but many unions have decided to act as if it does and all are committed to promoting equality.

Summary: policy requirements

Education establishments should:

- ensure gender equality policies and schemes refer specifically to equality for trans men and women
- develop Gender Equality Scheme action plans that include actions to tackle discrimination and harassment and promote equality for trans workers and learners



Corporate responsibilities

Corporate responsibilities to combat discrimination and harassment of trans people in employment and vocational training are as follows:

Governors

Governors are responsible for:

- ensuring that the strategic plan of any education institution includes a commitment to trans equality and equality training on trans issues
- ensuring their organisation is aware of its corporate responsibilities regarding legislation.

Senior management

The college principal/vice chancellor/chief executive and senior management team are responsible for:

- taking the lead on creating a positive learning and working environment for trans people, including challenging prejudice towards trans people
- maintaining an awareness of the institution's statutory duties regarding trans people
- ensuring that all publicity for the college or university conveys a positive message regarding trans people
- ensuring that all staff – teaching and support staff – have access to training on trans issues.

Staff

Staff are responsible for:

- maintaining an awareness of the institution's statutory duties regarding trans people
- being aware that they personally, as well as their employer, are liable if they take part in a discriminatory act
- challenging any discriminatory behaviour by students and learners, other members of staff, contractors and placement providers.

Trade unions

Trade unions are responsible for:

- being aware of their legal duty to not discriminate against trans members in the provision of goods, facilities and services
- representing trans members' interests to the institution, collectively and individually
- ensuring their publicity conveys a positive message regarding trans people
- training their staff and activists
- challenging any discriminatory behaviour by their members.

Students' unions

Students' unions are responsible for:

- being aware of their legal duty to not discriminate against trans members in the provision of goods, facilities and services
- representing trans students' interests to the institution
- training their staff and officers
- maintaining a safe space within the union building and challenging discrimination where it occurs
- ensuring that clubs and societies are accessible to all members of the union, including trans students.

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Implementing equality

Every place of learning has a responsibility to create an environment where all workers, learners and students accept and appreciate diversity – including gender diversity – and challenge intolerance. This will prepare learners and students for work where discrimination is unlawful. Their understanding of equality and their appreciation of diversity will make them more employable and better employees.

Trans workers and learners, generally speaking, simply want to be treated with dignity and respect and do their work. It is other workers and learners with uninformed or transphobic attitudes who need to be ‘managed’. Bearing in mind the level of bullying and harassment many young trans people experience at school, it is all the more important that college or university is a positive learning environment.

As public sector bodies, post-school places of learning have a duty to actively promote equality between women and men – including trans women and trans men – and eliminate discrimination and harassment.

This section outlines tools for implementing these duties.

UK equality legislation is currently framed in terms of gender reassignment. It is good practice to ensure equality, dignity and respect for all trans people, including those who fall outside the gender reassignment definition.

Creating and maintaining a welcoming environment

Working or learning in a trans-friendly environment does not just serve trans people well – it benefits everyone. Environments that view difference in a positive way and recognise that all stereotypes are unhealthy are good for the morale of all staff and learners.

It is increasingly recognised that there is a strong business case for implementing equality and diversity strategies:

- staff and students perform better
- institutions are recognised as being good employers and positive places to study

- more prospective students and staff apply
- staff turnover and student drop out rates fall
- the performance of the institution and the way it is regarded in the sector improve.

Mission statements

Many people thinking of applying for a job or a place at a college or university will access its websites. Discerning trans people will usually download the equal opportunities policy and gender equality scheme to see how inclusive of trans people they are. External messages about your place of learning are very good ways of getting a message of your ethos to the wider community. Advertisements stating that you ‘welcome applications from all sections of the community regardless of...’ should include ‘gender identity or gender reassignment’, giving a clear message of welcome to trans people.

Staff training

Equality and diversity training for all staff should include trans issues. Creating a trans-friendly institution involves all staff, from reception to strategic management. There may not be a person in-house who can adequately deliver this, but local or national trans groups may well be able to assist. (See Contact details, page 29.) Many trans people are very happy to educate organisations, providing they are treated with respect and in the same way as other trainers. The opportunity to have training and a question and answer session ‘from the horse’s mouth’ can be priceless.

Access to information

It is good practice to have educational resources in the library on trans issues – for example information booklets and website addresses to access more information. This can help the managers or tutors of trans staff or learners who are questioning their gender identity (see Further reading, page 34).

“

The tutors leaned more on the side of the people who had a problem with myself as a transsexual person, rather than supporting me as they should have done and protecting me from the abuse. I was seen as the problem.

”

A trans voice on the board

A recent survey by the Centre for Excellence in Leadership (CEL) revealed a lack of diversity on boards of governors in the post-school education sector. Colleges and universities should consider the trans community in governor recruitment and make contact with local trans groups. There is a significant population of older 'first generation' trans people who have been very successful in their careers and possess the necessary skills, knowledge and experience (as well as enthusiasm) to be a college governor.

Advertisements for governors should include 'gender identity or gender reassignment' in any statement about non-discrimination. Even if there are not any local trans people who aspire to become governors, conveying the message that trans people would be considered as governors will put your place of learning on the map to the wider community as trans friendly.

First impressions

First impressions count. There are opportunities to convey strong messages of inclusivity from the outset. Notices of 'zero tolerance' for harassment and bullying in main thoroughfares work well to communicate an ethos and can demonstrate a clear prohibition of transphobia (and other prejudices).

Staff and learner induction should state the values and policies of your learning environment, including a commitment to trans equality. This is particularly effective if sessions are interactive.

Take opportunities to present positive images, for example by celebrating Lesbian, Gay, Bisexual, Trans (LGBT) History Month, which is marked in February.

“

I am both working and studying at university, and nobody knows that I am trans. However, in the office in which I work, a member of staff has circulated a picture of another staff member who transitioned at work and added offensive comments to the picture. Everyone else thought this was enormously jolly.

”



Students' unions

Students' unions are central to the student experience, and it is essential that all students are made to feel welcome and valued within the union in relation to both its democratic and social functions. There are a few simple ways that you can make trans students feel welcome and a valued part of the students' union:

- support and fund a student-led LGBT group and LGBT officer on the union executive committee
- encourage members of the LGBT group to stand for other positions on the union executive committee
- provide space for trans students to network and socialise within the union and actively encourage them to attend union events
- ensure that any induction and freshers' materials include reference to trans students
- prominently display a statement of non-discrimination in the union building that explicitly refers to gender identity
- designate at least one set of toilets in your students' union as gender-neutral
- display LGBT publicity materials around the union.

Trade unions

Trade unions exist to defend their members' employment rights, including their trans members. Trade union members of the Forum on Sexual Orientation and Gender Identity include: the Association of Teachers and Lecturers (ATL), UNISON and the University and College Union (UCU). (See Contact details, page 29, for a full list of members.) They all have policies and practices in support of trans workers' rights.

Trade unions should:

- have specific reference to trans equality in their equal opportunities rules and policies
- actively seek to recruit trans workers, so they can have the benefits of union membership
- train union reps in trans equality issues
- negotiate specific trans equality policies (see Further reading, page 34, for example)
- provide information to trans members on their workplace rights
- publicise the union's commitment to trans equality, including on websites, in union journals, on local notice boards and via trans organisations
- provide opportunities for trans members to network and encourage trans members to become activists
- ensure their own policies and practices meet trans members' needs, including internal membership and other records and any rights to representation in democratic structures.

Beginning gender transition

When a person begins gender transition, the first step for them is to change all relevant documentation and begin living full-time in their acquired gender – this is known as the 'real-life experience'. Living full-time in a new gender means that the trans person needs to live as anyone else would in that gender.

It is often a stressful time for a trans person. They will probably have to deal with their family and partner/spouse coming to terms with their new role. It is usually the point at which trans people are at their most vulnerable to prejudice and discrimination.

“

I was working as a teaching fellow and becoming more open about my gender. A lecturing post came up for the job I was doing and despite my research fitting in with the department, having a good publication record for my age, the other lecturers liking and respecting me and getting glowing reports from the students I was teaching, I wasn't even short-listed. On enquiring why, the official reason was that it was felt best for me to go elsewhere.

”

One of the most important things an employer or education provider can do is make sure that they agree how the process will be handled with the person concerned, right from the start.

First meeting

Once a learner/student or worker indicates that they will be transitioning, the first step for the education institution should be to meet with them, together with any student or trade union rep, confirm that the institution will support them through transition and agree an action plan with timescales.

The action plan should include:

- how the information will be managed and by whom
- the start date of living full-time in new role
- when to use any single-sex facilities
- the process for changes to records and other documentation
- the expected timescale of any medical and surgical procedures
- time off that may be required for treatment and/or possible side effects
- a check on existing policies and practices, such as confidentiality, harassment and insurance, to ensure they are fit for purpose
- a strategy, should there be any media interest.

Changing records

A nominated staff member should be responsible for ensuring that records including library cards, email addresses, identity cards, website references, door signs, course information, photographs, staff and student records, payroll, student loan/local education authority, committee minutes and so on, are all changed at the time of any name change.

“

There was a local diktat that all trans people must use the bathroom of their biological gender, regardless of whether they had transitioned or not.

”

Single-sex facilities

The extent of single-sex facilities will vary from institution to institution. Some will have very few with gender-neutral toilets and changing facilities. Others may have single-sex clubs, colleges and/or accommodation.

It is up to the trans person when they will feel comfortable using the facilities appropriate to their new gender role. Some may wish to use unisex or disabled toilet or changing facilities for a while and then alter to their new facilities after a short period. Some may wish to use gender-appropriate facilities immediately. Whatever is decided, it is important to remember that the 'real life experience' is just that. It is not appropriate to expect a trans person to use unisex or disabled facilities (unless they are disabled) indefinitely. To expect this is to impede a person's transition and may constitute bullying.

Telling other people

It is important to agree with the person concerned how others will be informed. There is no general need to inform co-workers or students or the public, just those people with whom a working relationship will continue through the transition.

The trans person may want to lead this process themselves, either by means of a meeting or by one to one contact, or they may wish the institution to lead.

Either way:

- the person affected should have a say over what people are told and the language that is used
- the institution should be very clear that it supports the right of trans people to work and study free from discrimination and harassment and that it will not tolerate either.

It will be important to:

- set a tone that indicates that this is a normal procedure that should raise no problems
- include sufficient information to convey the facts, including general information about trans people
- not go into too much detail
- respect the trans person's right to confidentiality about medical and personal aspects
- pitch the information at a level and style appropriate to the audience
- include details of how people can get further information
- emphasise the importance of using the person's new name and correct pronouns.

The day of the new gender role

Some trans people may wish to go away for a short time and then come back in their new role – to have a symbolic break. Some may simply wish to leave as X on a Friday and return as Y on the following Monday. On the day of transition, it is essential that all identity cards, email addresses and so on are up to date.

Some people are likely to make mistakes with gender pronouns and names at first. Those in leadership roles should make a special effort by consistently referring to the person by their new name and pronoun. This usually works well, as it is impossible to have a conversation discussing someone using two different gender pronouns and usually the offender will fall into line.

After a week, it is a good idea for the trans person to meet up with the nominated member of staff they initially met. They can discuss how the week went and what problems may have arisen. It is important to keep monitoring the situation for the first six months so potential problems can be anticipated or dealt with before they escalate.

“

When I walked into the foyer of the college for the first time and saw a notice displayed saying 'we will not tolerate ...', which included transphobic harassment or bullying... it made a big difference to how I felt about being there.

”



Conclusion

Post-school education institutions may not have previously thought about equality for trans staff and students. Legislative changes mean that all must now take active steps to ensure trans equality – it is a requirement of the Gender Equality Duty. This is irrespective of whether there are known trans staff and students.

People may choose to keep their gender history completely private. This is their right and it is the duty of the institution to ensure all can work or study in a non-intimidating, respectful environment. Further, all education institutions should be prepared for future trans students or staff members.

The benefits of promoting trans equality go far beyond legal compliance. An institution that understands and meets the needs of trans staff and students has grasped the principles of equality. It will be a better place to work and study for all.

Education providers, students' unions and trade unions working in partnership for trans equality can make a real difference.



CONTACT DETAILS

Contact details

The Forum on Sexual Orientation and Gender Identity in Post-School Education

The Forum on Sexual Orientation and Gender Identity in Post-School Education was established in April 2007 and brings together relevant organisations to co-ordinate their work on sexual orientation and gender identity and share expertise.

Members include:

- Association of Colleges (AoC)
- Association of Teachers and Lecturers (ATL)
- Centre for Excellence in Leadership (CEL)
- Equality Challenge Unit (ECU)
- Learning and Skills Council (LSC)
- Lifelong Learning UK (LLUK) – which provides secretariat support
- National Union of Students (NUS)
- UNISON
- University and College Union (UCU).

Lifelong Learning UK provides the secretariat for the forum. Contact the secretariat by emailing:

aislinglyon@lluk.org

The Association of Colleges (AoC)

The Association of Colleges was created in 1996 as the single voice to promote the interests of further education colleges in England and Wales.

The Association provides a broad range of services to its subscribers. It represents their interests locally, regionally, nationally and internationally. Its management, split into various directorates, provides a pool of expertise on which the sector draws.

www.aoc.co.uk

Association of Teachers and Lecturers (ATL)

ATL is an education union – led by education professionals from across the sector and throughout the UK. ATL recognises the link between education policy and our members' conditions of employment. Its evidence-based policy-making enables the union to campaign and negotiate from a position of strength. ATL champions good practice and achieves better working lives for its members.

The union helps members, as their careers develop, through research, advice, information and legal support. It has 160,000 members – teachers, lecturers, headteachers and support staff – who are empowered to get active locally and nationally. It is affiliated to the TUC and works with government and employers, by lobbying and through social partnership.

ATL hosts an active lesbian, gay, bisexual and transgender (LGBT) equality network for its members.

www.atl.org.uk



The Centre for Excellence in Leadership (CEL)

The Centre for Excellence in Leadership (CEL) was launched in October 2003 as a key national agency within the Success for All initiative. Its aim is to work with sector partners to ensure world-class leadership within the learning and skills sector. It now operates through a charitable trust, which was formed by its operating company on 1 April 2006.

CEL's remit is to foster and support leadership improvement, reform, transformation, sustainability and quality improvement. It serves the existing and future leaders of all providers within the further education system, including FE colleges, training and work-based learning providers, adult and community providers, offender learning, specialist colleges and voluntary organisations.

Following the publication of the government's White Paper, *Further Education: raising skills, improving life chances*, CEL's diversity and equality remit is being expanded. It will also be involved in the introduction of a mandatory principal's qualification and the development of the quality improvement strategy for further education.

www.centreforexcellence.org.uk

The Equality Challenge Unit (ECU)

The Equality Challenge Unit supports the higher education sector in its mission to realise the potential of all staff and students whatever their race, gender, disability, sexual orientation, religion and belief or age, to the benefit of those individuals, higher education institutions and society.

The Equality Challenge Unit was established in 2001 to promote equality for staff employed in the higher education sector. Its role was expanded in 2006 to cover equality and diversity issues for students, as well as staff.

The Unit is funded by Universities UK, GuildHE, the Higher Education Funding Council for England, the Higher Education Funding Council for Wales and the Department for Employment and Learning in Northern Ireland. The Scottish Funding Council also funds the unit to collaborate with Equality Forward in Scotland.

www.ecu.ac.uk

The Learning and Skills Council (LSC)

The Learning and Skills Council exists to make England better skilled and more competitive. It has a single goal: to improve the skills of England's young people and adults to ensure a workforce of world class standard.

The LSC is a non-departmental public body that began work in 2001, taking over the roles of the former Further Education Funding Council and Training and Enterprise Councils.

The LSC is responsible for commissioning and funding post-16 education and training (other than higher education). It funds schools, colleges, adult and community learning services, work-based learning and other providers to deliver education and training. The LSC has a national office in Coventry and nine regional offices overseeing the work of local partnership teams throughout the country. Its annual budget for 2006–07 was £10.4 billion. The LSC's major tasks are to:

- raise the participation and achievements of young people
- increase adult demand for learning
- raise skills levels for national competitiveness
- improve the quality of education and training delivery
- equalise opportunities through better access to learning
- improve the effectiveness and efficiency of the sector.

The LSC's vision is that by 2010 young people and adults in England have knowledge and skills matching the best in the world and are part of a truly competitive workforce.

www.lsc.gov.uk

Lifelong Learning UK (LLUK)

Lifelong Learning UK (LLUK) is the Sector Skills Council for the lifelong learning sector. LLUK provides the strategic perspective for workforce planning and development within the sector. It is responsible for developing the professional framework for all those working in lifelong learning and for defining and developing the Sector Qualifications Strategy and standards for occupational competence. LLUK also leads stakeholders in the collection of workforce data and provides analysis on workforce characteristics to better inform future workforce planning.

LLUK is an active partner in the sector's work in promoting equality of opportunity and diversity. As well as the Forum on Sexual Orientation and Gender Identity in Post-School Education, it provides secretariat support to the Workforce Race Advisory Group, and sits on the Commission for Disabled Staff in Lifelong Learning.

www.lifelonglearninguk.org

National Union of Students (NUS)

The NUS is a voluntary membership organisation, which comprises of a confederation of local student representative organisations in colleges and universities throughout the UK that have chosen to affiliate and pay a membership fee. The union has constituent members – one in virtually every college and university in the country – and it represents the interests of over seven million students.

NUS is one of the largest student organisations in the world. It provides research, representation, training and expert advice for individual students and students' unions. Each year, it trains over 3,000 students' union officers. NUS fights barriers to education, empowers students to shape both a quality learning experience and the world around them, and supports influential, democratic and well-resourced students' unions.

www.nusonline.co.uk

UNISON

The public sector union UNISON has 1.3 million members working in the public services and utilities, including 350,000 education staff. Its members include librarians, registrars, people working in personnel, IT and finance departments, technicians, policy advisers, administrators, secretaries, cleaners, caretakers, catering workers, craft workers and porters.

UNISON has a proud history of working for lesbian, gay, bisexual and transgender equality and its LGBT members organise at a local, regional and national level.

It has a national trans caucus that meets twice a year. UNISON works to be an active and effective trade union, organising, representing and defending its members; tackling discrimination and promoting equality within the union, the workplace and society. It campaigns for world class public services that meet the needs of all, delivered by a fairly paid, well trained, directly employed workforce.

www.unison.org.uk

University and College Union (UCU)

The University and College Union (UCU) represents more than 120,000 academics, lecturers, trainers, instructors, researchers, managers, administrators, computer staff, librarians and postgraduates in universities, colleges, prisons, adult education and training organisations across the UK.

UCU is the largest post-school union in the world: a force working for educators and education. It was formed in June 2006 by the amalgamation of the Association of University Teachers (AUT) and NATFHE – the University and College Lecturers' Union – which shared a long history of defending and advancing educators' employment and professional interests.

www.ucu.org.uk

National trans equality organisations

The following trans organisations offer policy advice and good practice guidance. They can provide details of national, local and online support groups for trans people and their families and friends.

The Gender Identity Research and Education Society (GIRES)

Melverly, The Warren
Ashted
Surrey KT21 2SP
Tel: 01372 801554
Fax: 01372 272297

Promotes and communicates research that improves the lives of people affected by gender identity and intersex issues.

www.gires.org.uk

Gender Trust

PO Box 3192
Brighton BN1 3WR
Tel: 01273 424024 (office hours)
Helpline: 07000 790347
Email: info@gendertrust.org.uk

Offers advice and support for trans people, especially male-to-female, and to partners, families, carers and allied professionals. Has a membership society and produces a quarterly magazine, *GT News*.

www.gendertrust.org.uk

Press for Change

BM Network
London WC1N 3XX
For emergencies only: 0161 247 6444
Email: letters@pfc.org.uk

Campaigns for equal civil rights for trans people. Also provides legal help and advice for individuals, information and training for professionals and speakers for groups. Produces a newsletter and publications. Please send SAE for further details.

www.pfc.org.uk

Scottish Transgender Alliance

Equality Network
30 Bernard Street
Edinburgh EH6 6PR
Tel: 07020 933 952
Fax: 07020 933 954
Email: james@equality-network.org

Funded by the Scottish government equality unit, STA provides training and good practice guidance on trans equality issues and works to build the capacity of trans support groups in Scotland and campaigns for lesbian, gay, bisexual and transgender equality in Scotland.

www.equality-network.org

Further reading

Joint Agreement on Guidelines for Transgender Equality in Employment in Further Education Colleges (2007) agreement between AoC, ACM, ATL, GMB, TGWU, UCU and UNISON.

Diversity and Governance Research Report (2007) Centre for Excellence in Leadership.

Trans Staff and Students in Higher Education Guidance, (2008) Equality Challenge Unit.

Putting the LGBT into FE (2007) National Union of Students.

Inclusive Students' Unions – Survey findings (2007) Equality Challenge Unit with National Union of Students (NUS) and the Association of Managers in Students' Unions (AMSU).

Engendered Penalties: Transgender and transsexual people's experiences of Inequality and Discrimination, (2007) Press for Change.

Scottish Transgender Survey (2007) Scottish Transgender Alliance.

Bargaining for Transgender Workers' Rights (2008) UNISON.

Introductory Guide for Trade Union Reps Supporting Trans Members (2008) UNISON/Scottish Transgender Alliance.

**For further copies of this guide or for braille or other format versions contact:
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UNISON, 1 Mabledon Place,
London WC1H 9AJ**

Photographs on pages 8, 11, 16, 23 and 30 by Sara Davidmann



