

People Transgender and Non-Binary Policy

POLICY

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Approving Body	Joint Staff Partnership Forum		
Date Approved	28 June 2023		
For publication to external SFH website	Positive confirmation received from the approving body that the content does not risk the safety of patients or the public:		
	YES	NO	N/A
			X
Issue Date	28 June 2023		
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Summary of Changes from Previous Version	Not applicable		
Supersedes	Not applicable		
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Consultation Undertaken	Consultation on this Policy took place through the Trust's LGBTQ+ Staff Network, the former People, Diversity and Inclusion Sub-Cabinet and Staff Side Secretary.		
Date of Completion of Equality Impact Assessment	16 June 2023		
Date of Environmental Impact Assessment (if applicable)	Not applicable		
Legal and/or Accreditation Implications	Compliance with Equality Act 2010, The Gender Recognition Act 2004 and Data Protection Act 2018 (UK – GDPR)		
Target Audience	This Policy concerns all aspects of employment and applies to all employees working and training in the Trust, and to all potential employees.		
Review Date	March 2026		
Sponsor (Position)	Director of People		
Author (Position & Name)	People Equality, Diversity and Inclusion Lead		
Lead Division/ Directorate	Corporate		
Lead Specialty/ Service/ Department	People Directorate		
Position of Person able to provide Further Guidance/Information	People Equality, Diversity and Inclusion Lead		
Associated Documents/ Information			Date Associated Documents/

	Information was reviewed
1. GD71 Transgender and Non-Binary Colleagues Guidance 2. GD42 Agile Working Guidance	Not applicable

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1.0 INTRODUCTION

Sherwood Forest Hospitals (NHS) Foundation Trust is fully committed to leading and promoting equality, inclusivity and diversity and opposes all forms of unlawful or unfair discrimination on the grounds of gender reassignment and gender identity and is committed to supporting Trans employees through transition.

The purpose of the Trust's People Transgender and Non-Binary Policy is to provide a framework which explicitly states the Trust's commitment to providing support in employment for both current and prospective employees, valuing the diversity of its employees and defining the actions required to ensure this Policy is translated into compassionate and inclusive employment practices.

Gender reassignment is a protected characteristic under the Equality Act 2010, we must ensure that people are not discriminated against or disadvantaged by service delivery or prejudice of Sherwood Forest Hospitals employees, patients, their family members, or other members of the public.

We also recognise that being transgender is only one aspect of an individual's identity and therefore each person will have different needs and as such, a person-centred approach will be taken.

Although the phrase 'gender reassignment' is used in The Equality Act 2010, this and The Gender Recognition Act 2004 are clear that gender reassignment does not need to involve any medical intervention.

2.0 POLICY STATEMENT

We recognise the broad spectrum of gender diversity within society and that traditional gender stereotypes are inadequate in reflecting the lives of colleagues and service users and that people have the right to live with dignity and respect in the gender with which they identify and there should be no exceptions to this when a transgender or non-binary person is an employee or using our services and facilities.

The Trust accepts that such an environment requires individual differences and cultural diversity to be recognised and valued and that certain staff groups may require specific initiatives and/or assistance to progress and develop within the organisation.

This policy needs to be considered alongside other Trust policies including Equality, Diversity and Inclusion, Bullying and Harassment, Sickness and Wellbeing and Recruitment and Selection and Information Governance. In addition, in supporting trans and non-binary colleagues, this policy should not be referred to in isolation, it should be used in conjunction with the Transgender and Non-Binary Colleagues Guidance.

A full equality impact assessment has been undertaken for this policy taking fully into account the provisions of the Equality Act of 2010 and the Gender Recognition Act 2004.

2.1 POLICY AIMS

The primary aim of this Policy is to create a working environment where all transgender and non-binary employees can contribute to their full potential and progress and develop within the organisation based solely on individual ability, competence and performance and that they will be treated in their self-identified gender at all times.

It aims to support the organisation in its delivery of equality and inclusivity for transgender and non-binary colleagues and to ensure it does not breach the Equality Act 2010 and/or the Gender Recognition Act 2004 and the Data Protection Act 1998.

The Equality Act 2010 ensures that transgender and non-binary people are protected from discrimination and any such behaviour should be challenged, whether the discrimination stems from colleagues, patients, their family members, or members of the public.

3.0 DEFINITIONS/ ABBREVIATIONS

The Trust:

means Sherwood Forest Hospitals NHS Foundation Trust

Employees:

means all employees of the Trust including those managed by a third-party organisation on behalf of the Trust

Service Users:

means all those who use our services including patients, family members, carers, and any other visitors to the Trust

Trans/Transgender:

Transgender is a broad term that can be used to describe people whose gender identity is different from the sex they were assigned at birth. Trans is often used as shorthand for transgender and the terms transgender person, trans man, trans women are usually the preferred terms for this community.

The Equality Act 2010 and Gender Recognition Act 2004 refer to trans people as 'transsexual'; this is considered an outdated term and should not be used to describe a trans person unless they request it.

Under The Equality Act 2010, a transgender person does not have to be under medical supervision or have a gender recognition certificate (GRC) to prove that they have the protected characteristic of gender reassignment. For example, a trans person who simply starts using different pronouns (she, he, and/or they) is protected by the Equality Act regardless of whether they wish to take any hormones or have any surgeries.

This policy applies to anyone self-identifying as transgender and anyone proposing to undergo, is undergoing or has undergone any part of a process for the purpose of gender reassignment.

Non-Binary:

Non-binary is an adjective describing identities that do not fit into binary definitions of male or female. This may be shortened as 'enby' (pronounced 'N B') by some non-binary people.

Non-binary people may or may not consider themselves to be transgender, so it is important not to make assumptions about the language people use to describe themselves.

Discrimination:

Discrimination occurs when someone treats a person or particular group of people differently, especially in a worse way from the way in which they treat other people, because of a protected characteristic, for example, their ethnic background, sex, sexuality. There are different ways in which discrimination occur and it is important that all colleagues have an understanding of the types of discrimination in order to uphold the requirements of this policy. More details can be found in the guidance and support document.

4.0 ROLES AND RESPONSIBILITIES

There is an expectation that employees at all levels will accept personal responsibility for the application of this policy. The Transgender colleague guidance and support document should be referred to in addition to this policy, as not following the guidance and support could be considered a breach of this policy.

Responsibility of Trust Board

The Trust Board, through the Trust Management Team has primary responsibility for ensuring all reasonable steps are taken to prevent unlawful discrimination in the Trust. This includes ensuring the review and implementation of policies and procedures and ensuring that the requirements of this policy are embedded in the organisation.

Responsibilities of Managers and Supervisors

As leaders in the operational setting, managers and supervisors must recognise their responsibility to adopt good employment practices that are consistent with the requirements of the Equality, Diversity and Inclusion Policy. They shall seek to promote, within their particular work area, an environment where individual people differences and cultural diversity are recognised and valued and ensure the Trust CARE values are upheld.

Managers and supervisors must challenge inappropriate comments, 'banter' and discriminatory behaviour either verbal or electronic at all times and maintain a zero-tolerance approach. They must not collude with staff in discriminatory behaviour or attempt to hide such behaviour by failing to address or challenge discrimination.

Managers and supervisors will provide support and / or arrange support to victims of hate crime, bullying, harassment, and discrimination under their duty of care.

Responsibilities of Employees (including bank staff, volunteers and those on work placement)

It is the duty of all employees to co-operate with any measures introduced by the Trust to develop and maintain equal opportunities in employment and to ensure no colleague faces discrimination.

All employees are expected to uphold the Trust CARE Values and foster good working relationships with all their colleagues including those who share a protected characteristic and those who do not.

All employees are expected to challenge inequality, discrimination and harassment or bullying whether it is verbal or written (including email, SMS/text messaging and/or social media posts) and to report any such instances to their line manager or a senior manager where appropriate.

Head of Procurement

The Head of Procurement will ensure all procurement practices in respect of goods and services support this policy and enable the Trust to meet its duties under equality anti-discrimination legislation.

Staff Representatives

Staff representatives are expected to work in partnership with the Trust in contributing to the development, implementation and review of this policy.

Patients, Carers and Visitors

It is our expectation that all users of our services will not abuse, harass, bully or intimidate our employees, other patients or visitors.

We ask that any perceived breach of this policy is reported to the People EDI Lead as soon as practicable.

5.0 APPROVAL

Approval of this Policy took place through the Joint Staff Partnership Forum. Prior to final approval, this policy was reviewed by the Trust's Equality, Diversity and Inclusion sub-cabinet and the Trust's staff networks.

6.0 DOCUMENT REQUIREMENTS

Any action or behaviour found to be in breach of this Policy may be regarded as misconduct or gross misconduct in accordance with the Trust's Disciplinary Policy.

7.0 MONITORING COMPLIANCE AND EFFECTIVENESS

Minimum Requirement to be Monitored (WHAT – element of compliance or effectiveness within the document will be monitored)	Responsible Individual (WHO – is going to monitor this element)	Process for Monitoring e.g. Audit (HOW – will this element be monitored (method used))	Frequency of Monitoring (WHEN – will this element be monitored (frequency/ how often))	Responsible Individual or Committee/ Group for Review of Results (WHERE – Which individual/ committee or group will this be reported to, in what format (eg verbal, formal report etc) and by who)
Equality Impact Assessments	To be completed by managers / Policy owners / Divisions	Audit of Equality Impact Assessments	Monthly	People Wellbeing and Belonging Sub-cabinet / Joint Staff Partnership Forum

8.0 TRAINING AND IMPLEMENTATION

In order to put the concept of equal opportunities into practice in the day to day operation of health care services at the Trust, the following action will be taken:-

- The responsibilities of all employees in connection with this Policy will be made explicit and managers will be expected to incorporate the philosophy of this statement into all management systems and procedures.
- The Trust's procedures for recruitment, selection, promotion and training will be subject to periodic review, and monitoring systems will be established to assess the application and effectiveness of such procedures.
- Appropriate training and guidance will be provided for key decision makers such as managers, supervisory staff and those involved in People Management practices.
- All new employees to the Trust will, as part of their induction (orientation day and new starter e-learning), be made aware of the Trust's commitment and their personal obligation to discharge their responsibilities, as outlined within this Policy, in the course of their employment with the Trust.

The Trust will ensure that appropriate mechanisms are in place for investigating and resolving grievances regarding discrimination and harassment, and any allegations of will be treated seriously and sensitively, and appropriate action taken.

The Trust will also ensure the provision of additional guidance documents to support the implementation of this policy.

9.0 IMPACT ASSESSMENTS

This document has been subject to an Equality Impact Assessment, see completed form at Appendix 1.

This document is not subject to an Environmental Impact Assessment

10.0 EVIDENCE BASE AND RELATED SFHFT DOCUMENTS

Evidence Base

Legislation:

The following current and forthcoming legislation and Government guidelines and the Agenda for Change: NHS Terms & Conditions Handbook, should be taken into consideration when applying this Policy:

- The Equality Act 2010
- The NHS Constitution 2010
- Human Rights Act 1998
- Gender Recognition Act 2004
- Protection from Harassment Act 1997

Codes of Conduct published by:

- Commission for Equality and Human Rights
- ACAS Guidance Notes
- Regulatory Bodies, e.g. Nursing and Midwifery Council, General Medical Council, Healthcare Professional Council.

Related SFHFT Documents:

- Equality, Diversity and Inclusion (EDI) Strategy
- Anti-Racism Strategy
- Trust CARE Values
- EDI Policy and Guidance
- Discrimination and Bullying Guidance
- Dignity at Work Policy
- Raising Concerns (Whistleblowing) Policy and Procedure

11.0 KEYWORDS

Discrimination, fair, identity, law, rights, characteristics, legislation, bullying, harassment, legislation, inequality, equality act, EDI, trans, transgender, non-binary

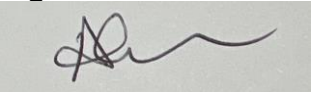
12.0 APPENDICES

Appendix 1 – Equality Impact Assessment

APPENDIX 1 - EQUALITY IMPACT ASSESSMENT FORM (EQIA)

Name of service/policy/procedure being reviewed: People Transgender Policy			
New or existing service/policy/procedure: New			
Date of Assessment: 16 June 2023			
For the service/policy/procedure and its implementation answer the questions a – c below against each characteristic (if relevant consider breaking the policy or implementation down into areas)			
Protected Characteristic	a) Using data and supporting information, what issues, needs or barriers could the protected characteristic groups' experience? For example, are there any known health inequality or access issues to consider?	b) What is already in place in the policy or its implementation to address any inequalities or barriers to access including under representation at clinics, screening?	c) Please state any barriers that still need to be addressed and any proposed actions to eliminate inequality
The area of policy or its implementation being assessed:			
Race and Ethnicity	This policy applies to all colleagues; no specific issues identified.	EDI Policy and associated guidance and Transgender support document	None
Gender	This policy aims to support all colleagues and in particular supports those whose chosen gender is different to that which they were assigned at birth.	EDI Policy and associated guidance and Transgender support document	The electronic staff record (ESR) currently only has the options of 'Male' and Female' for Gender and this is a mandatory field so could be deemed not inclusive for non-binary people. However, there are fields within ESR, for example DBS, where the legal gender must be noted. There is a national review of NHS Equality Monitoring data being undertaken but no changes will be implemented on ESR until this is

			<p>completed and there are no known timescales for the completion of this work.</p> <p>We are exploring ways that we might be able to make ESR more inclusive in the meantime but acknowledge this may not be possible and we may have to await the outcome of the national review and even thereafter, changes to the Gender field may not be possible due to legal implications.</p> <p>This barrier has been noted in the Guidance document that accompanies this policy.</p>
Age	This policy applies to all colleagues; no specific issues identified.	EDI Policy and associated guidance and Transgender support document	None
Religion	This policy applies to all colleagues; no specific issues identified.	EDI Policy and associated guidance and Transgender support document	None
Disability	This policy applies to all colleagues; no specific issues identified.	EDI Policy and associated guidance and Transgender support document	None
Sexuality	This policy applies to all colleagues; no specific issues identified.	EDI Policy and associated guidance and Transgender support document	None
Pregnancy and Maternity	This policy applies to all colleagues; no specific issues identified.	EDI Policy and associated guidance and Transgender support document	None
Gender Reassignment	This policy aims to support all colleagues and in particular supports those whose gender is different to that which they were assigned at birth.	EDI Policy and associated guidance and Transgender support document	None
Marriage and Civil Partnership	This policy applies to all colleagues; no specific issues identified.	EDI Policy and associated guidance and Transgender support document	None

Socio-Economic Factors (i.e. living in a poorer neighbourhood / social deprivation)	This policy applies to all colleagues; no specific issues identified.	EDI Policy and associated guidance and Transgender support document	None
What consultation with protected characteristic groups including patient groups have you carried out? LGBT+ Staff network The former Equality, Diversity and Inclusion sub-cabinet			
What data or information did you use in support of this EqIA? Equality Act 2010 The Gender Reassignment Act 2004 Trust EDI Strategy			
As far as you are aware are there any Human Rights issues be taken into account such as arising from surveys, questionnaires, comments, concerns, complaints or compliments? No			
Level of impact Low			
Name of Responsible Person undertaking this assessment: Ali Pearson, EDI Lead			
Signature: 			
Date: 16 June 2023			