

Transgender and Non-binary Equality Policy

Contents

1. Policy	2
2. Scope of the Policy	2
3. Definitions	2
4. Commitment to Trans and Non-Binary Equality.....	3
5. Legal Protection	3
6. Confidentiality	4
7. Protection from Harassment and Discrimination.....	4
Support, Guidance and Good Practice.....	5
8. Supporting Transition at Work	5
9. Facilities	5
10. Time off.....	6
11. Change of Name and Gender at Work	6
12. Payroll, HMRC and Pensions	7
13. Recruitment Related Issues.....	7
14. Support Available.....	8
Relevant Policy Headings	8
Appendix 1 - Transition Support Checklist.....	9

1. Policy

- 1.1 St Mary's University is fully committed to promoting equality of opportunity and creating an inclusive culture for trans and non-binary members of staff, while providing a positive work environment free from discrimination. This commitment is supported by our values of respect, inclusiveness, excellence and generosity of spirit.
- 1.2 One of the key aims of this policy is to set out how the University will ensure an inclusive culture that both welcomes and supports trans and non-binary staff, and ensures staff are treated with dignity and respect. It will also seek to foster positive relations amongst transgender staff and the broader University community.

2. Scope of the Policy

- 2.1 This policy applies to all staff employed by the University. All staff are responsible for ensuring there is no discrimination in the workplace, and for ensuring that this policy is applied on a day-to-day basis. However, this policy does not form part of anyone's contract of employment and may be amended, updated or supplemented from time to time.

3. Definitions

This section provides definitions of the terms used within the policy. It is important to recognise that terminology is continually evolving and becomes out dated. Every effort has been made to ensure the terms used are current.

- Acquired gender – A legal term used in the Gender Recognition Act 2004. It often refers to the gender that a person who is applying for a gender recognition certificate has lived in for two years and intends to continue living in.
- Gender identity – A person's innate sense of their own gender, whether male, female or something else, which may or may not correspond to the sex assigned at birth.
- Gender reassignment – To undergo gender reassignment usually means the process of undergoing some sort of medical intervention to match the individual's gender identity, but it can also mean changing names, pronouns, dressing differently and living in their self-identified gender.
- Gender Recognition Certificate (GRC) – This enables trans individuals to be legally recognised in their acquired gender and to be issued with a new birth certificate.
- Non-Binary – A term for people whose gender identity doesn't sit comfortably with 'man' or 'woman'. Non-binary identities are varied and can include people who identify with some aspects of binary identities, while others reject them entirely. People who are non-binary may have gender identities that fluctuate (gender fluid); they may identify as having more than one gender depending on the context i.e. bigender or pangender; feel that have no gender i.e. agender, non-gendered; or they may identify gender differently i.e. third gender, genderqueer.
- Pronouns – A term used to refer to an individual's gender, for example 'he' or 'she'. Some people may prefer others to refer to them in gender-neutral language and use pronouns such as they/their or a neo pronoun.
- Sex - "legal sex" or "biological sex" in this policy is related to the UK government definition of sex, which refers to the sex infants are recorded as at birth, usually male or female, based on the appearance of their external anatomy. There are also naturally occurring instances of variations in sex characteristics (sometimes known as intersex), where people are born with hormones, chromosomes, anatomy or other characteristics that are neither exclusively male nor female.

- Trans/Transgender – Umbrella terms to describe people whose gender is not the same as, or does not sit comfortably with, the sex they were assigned at birth. The term may include, but is not limited to trans men and women, non-binary people, and gender non-conforming people.
- Trans/Gender history – A person with a trans history will have transitioned to their self-identified gender. Consequently, they may no longer identify as a trans person, and simply see their transition as one part of their history.
- Transitioning – The steps a trans person may take to live in the gender with which they identify. Each person's transition will involve different things: for some this will involve medical intervention, such as hormone therapy and surgery. But not all trans people want or are able to have this. Transitioning might also involve telling friends and family, dressing differently and changing official documents.

4. Commitment to Trans and Non-Binary Equality

4.1 The University is committed to the following:

- Respecting the confidentiality of all trans staff and not revealing information without the prior agreement of the individual;
- Ensuring all requests to change name and gender on records will be handled sensitively and as promptly as possible and that appropriate staff will be made aware of any implications of the changes;
- Staff will not be excluded from recruitment, promotion, access to training or benefits because of their gender reassignment or trans history;
- Discrimination, harassment and victimisation of an individual because of their gender reassignment will not be tolerated and will be dealt with under the appropriate procedure;
- Providing a supportive environment for staff who wish their trans status to be known;
- Including gender identity issues and appropriate use of pronouns in equality training;
- Providing appropriate facilities insofar as it is able for trans and non-binary staff;
- Providing positive support to staff undergoing medical and surgical procedures related to gender reassignment;
- Considering gender identity alongside the protected characteristics, when policies and procedures are developed or reviewed, as part of the equality analysis process.

5. Legal Protection

5.1 The Equality Act 2010 gender reassignment as one of the 'protected characteristics' on the grounds of which individuals are protected against unlawful discrimination, which includes direct discrimination, indirect discrimination, harassment and victimisation.

5.2 Gender reassignment is a personal process. An individual does not need to have undergone medical treatment or to be under medical supervision to be protected under the Equality Act as a transgender person.

5.3 It is unlawful to discriminate against someone because they are perceived to be transgender, whether or not the perception is accurate. It is also unlawful to discriminate against someone because of their association with a transgender person i.e. a family member, friend or partner.

- 5.4 The Gender Recognition Act (GRA) 2004, enables transgender individuals who meet certain criteria to have their gender recognised in law and reflected on their birth certificate, by obtaining a Gender Recognition Certificate. This means they are legally recognised for all purposes in their acquired gender and have all the rights associated with that gender.
- 5.5 Under the GRA, anyone who obtains information about an individual's gender history in an official capacity e.g. as part of the individual's work role, may be breaking the law if they disclose the information without the individual's consent.
- 5.6 Not all trans people will choose to apply for a Gender Recognition Certificate and it is the University's policy not to ask any member of staff or job applicant whether they have a Gender Recognition Certificate or to ask to see a Gender Recognition Certificate. If the University requires proof of legal sex, a birth certificate or passport should generally suffice.

6. Confidentiality

- 6.1 The University will respect the confidentiality of trans individuals and will not disclose information about their transgender history or status, or their intention to transition, without the express permission of the individual.
- 6.2 If an individual notifies the University of their intention to transition during their employment, the University will agree with them what steps should be taken and a date from which records will reflect their acquired gender.
- 6.3 If an individual informs the University that they have received a Gender Recognition Certificate, the University will agree with them what steps should be taken to ensure records adequately reflect their acquired gender.

7. Protection from Harassment and Discrimination

- 7.1 The University does not tolerate discrimination, including direct discrimination, indirect discrimination, harassment and/or victimisation on the basis of sex or gender reassignment.
- 7.2 The University recognises the right of individuals to choose whether to disclose their gender identity and history, and is committed to protecting the dignity of all staff. The University supports employees who wish to change their gender presentation. Employees have the right to wear clothing appropriate to their chosen gender identity.
- 7.3 Bullying and/or harassment of a trans or non-binary member of staff may involve verbal or physical abuse. This could include (but is not limited to) the persistently inappropriate use of language or pronouns, references to sexual orientation or sexuality and referring to the individual's previous gender.
- 7.4 To reveal an individual's trans status without permission may amount to a form of harassment and can be a criminal offence.
- 7.5 All instances of harassment, bullying and/or discrimination should be considered under the University Dignity at Work Statement. Should staff have concerns that the statement has been breached these concerns should usually be raised under the grievance procedure, following which disciplinary action may be taken where appropriate.

Support, Guidance and Good Practice

8. Supporting Transition at Work

- 8.1 Transitioning is the steps a person may take to live in the gender with which they identify. The University recognises that staff transition is a matter of personal choice and need not be deemed a medical necessity. Trans staff will not be asked about their intention to undergo any medical procedures, and there will be no assumption that trans individuals experience gender dysphoria, a condition where a person experiences discomfort or distress because there is a mismatch between their biological sex and gender identity.
- 8.2 The University will take positive action to support trans individuals and resources will be available to help individuals organise an action plan. However, the process of transitioning itself will be entirely led by the trans staff member themselves.
- 8.3 Any staff member who indicates their intention to transition is encouraged to speak with their line manager. However, it is recognised that this is a personal process and some staff may feel uncomfortable talking with their line manager, in which case they could speak to a senior member of staff in their department or contact their HR Business Partner in the first instance.
- 8.4 An action plan will be agreed with the staff member and their line manager. This will include aspects such as whether the individual will use a different name; what records will need changing; when colleagues and others will be informed about the transition and an agreed timescale for actions to take place. A template action plan can be found at Appendix 1. However, the University recognises that every individual's journey is different and the expectations and responsibilities of each party will be unique to each transition.

9. Facilities

- 9.1 The University recognises that staff should be able to use toilets and changing facilities appropriate to their gender identity. Employees do not require a Gender Recognition Certificate or to have undergone any medical procedures to use toilet and changing room facilities that correspond with their gender identity.
- 9.2 The University acknowledges that non-binary, non-gendered and other gender diverse people may feel more comfortable using gender-neutral facilities, and these will be made available wherever possible. It is not acceptable for staff or students to insist on a trans individual using gender-neutral or accessible facilities as this is a personal choice. Trans staff are able to access male only and female only facilities according to their gender identity. Under no circumstances should they be expected to use the facilities of their former gender.
- 9.3 The University is committed to providing a range of gendered, gender-neutral and accessible toilets across the University campus. As part of every new-build or refurbishment the provision of gender-neutral facilities will be considered and implemented wherever practical.
- 9.4 The University will comply with all provisions the Equality Act 2010 as an employer, as a further and higher education provider and also as a service provider. It is recognised that under the Equality Act 2010, providers of separate or single-sex services may exclude, modify or limit access to trans people under certain circumstances. The University is committed, in every case, to ensure the interests of all individuals involved are carefully considered and balanced.

10. Time off

- 10.1 The University recognises that transgender staff may need to attend appointments associated with gender reassignment and transition and this may necessitate taking time off work. It is expected that reasonable time off work will be given to attend some appointments, combined with the use of annual leave, as appropriate.
- 10.2 Time away from work for medical procedures and interventions, surgery and to recover from surgery will be recorded as sickness absence in the usual way, but should not normally trigger the University Sickness Absence Policy and Procedure or be taken into account for the purposes of considering an individual for promotion or pay progression.
- 10.3 Managers should be flexible and supportive of staff wherever possible. It may constitute unlawful discrimination to treat an employee who is absent while undergoing the gender reassignment process less favourably than those absent because of illness or otherwise. Employees should give as much notice as possible of time off related to transition.
- 10.4 Staff may be asked to attend an Occupational Health appointment, before their return to work following a long-term absence, to ensure that they are fully recovered before returning to their full duties and for advice on any adjustments that may be required.
- 10.5 Managers should consider any adjustment that might be required to facilitate a return to work.

11. Change of Name and Gender at Work

- 11.1 Some people may change their given name when they change their gender identity. The University will update all of its records at an agreed time where the individual provides evidence of a formal name change e.g. Deed Poll or Statutory Declaration. A new (or existing) staff member may have a Gender Recognition Certificate, which they may choose to offer as evidence of a formal name and gender change; however, this should not be requested.
- 11.2 If an individual does not want to change their legal name, has not yet changed their legal name or otherwise, they may request that the University use a first preferred name. This can be used for internal purposes including on Peoplenet, email address and Staff ID card. However, where there is a requirement for legal or official processes (e.g. pension and insurance records, payroll as applicable) the legal name may still be used, until evidence of a formal name change is provided.
- 11.3 All requests to make a change of name on employment records should be made in writing (either by the individual or their line manager) to the relevant HR Business Partner.
- 11.4 Notification of intent to transition is generally sufficient for a person's gender to be changed on their employment record, without the need for evidence of medical transition or otherwise. However, where there is a requirement for legal or official processes (e.g. pension and insurance records, payroll, as applicable), additional information and documentation may be required.
- 11.5 A staff member who obtains a Gender Recognition Certificate during their employment can request that any reference to their previous gender, and if applicable, their previous name is completely removed from their employment records. All papers and electronic records that refer to the individual's name or gender should then be amended or replaced to the extent possible i.e. an individual's old birth certificate should be replaced with their new one; if an

individual has changed their name, the original contract should be replaced with a contract that reflects their change of name.

- 11.6 Records should only be changed at the request of the staff member. The date from which records will be changed should be agreed with the individual concerned.
- 11.7 The University recognises that staff identifying as non-binary or gender fluid may not wish to use male or female pronouns, and would prefer to use 'they' or another pronoun. Staff should be addressed and referred to using the pronouns which they choose.

12. Payroll, HMRC and Pensions

- 12.1 The University aims to recognise individuals in the gender in which they identify wherever possible. However, there will be a need to keep a record of an individual's legal sex to share with external organisations where required to do so.
- 12.2 Payroll returns have to meet the requirements of the HMRC with regards to gender as it is linked to an individual's National Insurance number and pension information. The HMRC defines gender as male or female and therefore the Payroll department will need to use the legal sex of individuals on such returns.
- 12.3 Where an individual formally changes their legal sex and provides evidence i.e. Gender Recognition Certificate or birth certificate to the University, future returns will be amended to reflect this.
- 12.4 The University may need to notify certain external organisations (e.g. payroll, HMRC, pensions and insurance providers) of a name and gender change. Such disclosure will be made on a 'need to know' basis.

13. Recruitment Related Issues

- 13.1 Prospective members of staff will be required to provide evidence to demonstrate their right to work in the UK, such as a passport or birth certificate. Such documentation may reveal a trans person's gender history and will be dealt with sensitively and confidentially by the relevant HR Business Partner. All documentation will be held confidentially and only processed by those directly responsible for HR administration.
- 13.2 The University provides an online application process for Disclosure and Barring Service (DBS) checks, therefore the completed form will not be seen by University staff. Applicants will be required to provide documentary evidence to the University to verify their DBS application. Such documentation may reveal a trans person's gender history and will be dealt with sensitively. The individual may request that a member of the HR team completes the verification process rather than a staff member from their team.
- 13.3 The DBS service offers a [confidential checking service](#) for transgender applicants. This is known as the 'sensitive applications route'. This process is for transgender applicants who do not wish to reveal their gender history to their employer.
- 13.4 References provided by the University for current or former staff will use the name and pronoun that the individual has informed the University they wish to be known by and will not refer to the person's previous name or reveal them as trans.
- 13.5 Should a reference be received for someone who has transitioned, which refers to them by a previous name or gender, the University will ensure that such information remains confidential.

14. Support Available

- 14.1 The University [Employee Assistance Programme \(EAP\)](#), Validium is a confidential information and counselling service, offering support to all staff. The service is available 24 hours a day, 365 days per year on 0800 358 48 58.
- 14.2 The University LGBTQ+ staff network aims to improve the experience of LGBTQ+ staff at St Mary's and can be contacted at lgbtq@stmarys.ac.uk
- 14.3 The University's [Mental Health First Aiders \(MHFAs\)](#) are also available to provide confidential support to members of staff.

Relevant Policy Headings

Dignity at Work Statement

Disciplinary Policy & Procedure

Grievance Procedure

Freedom of Speech

- **Date Written:** December 2021
- **Author:** HR
- **Version number:** 2
- **Effective from:** July 2022
- **Review date:** January 2024
- **Impact Assessment date:** December 2021
- **History (where discussed / who circulated to / committees considered):** Staff EDI Board, EDI Staff Network Groups, Unison, UCU, University Executive Committee, Finance Resource Committee.

Appendix 1 - Transition Support Checklist

Transition Support Checklist for Staff	
	<p>This checklist seeks to provide guidance and support for individual members of staff who are transitioning. The <i>checklist may also serve as a resource for those individuals' line managers</i> as they help support those individuals through transition. Finally, this checklist may be used as a reference for colleagues of an individual who is transitioning who may wish to know more about the steps involved/support available for those individuals. It should be noted that this is intended as a guide only and may be amended to suit a <i>particular individual's circumstances or otherwise</i>.</p>
Date Completed	Task
	<input type="checkbox"/> Identify a main contact
	<p>Identify a person as point of contact to support the individual and agree an action plan. This would usually be the line manager, or in some instances an HR Business Partner or senior member of the department. They should liaise with HR if the point of contact is not the HR Business Partner.</p>
	<input type="checkbox"/> Set timetable for key milestones
	<p>Agreed key dates for actions e.g. changes to records, announcements/communications N.B consider confidentiality (what the individual wants disclosed) and data protection implications</p>
	<input type="checkbox"/> Make name and gender changes in Employment records
	<p>An agreement between the individual and their manager (or HR Business Partner) to decide which records need changing, e.g.:</p> <ol style="list-style-type: none"> 1. Personnel records including contract, iTrent account, payroll, HMRC, pension and insurance records, as necessary 2. ID card/name badges 3. Email address and signature/computer log ins (via IT) 4. Profile on the University website(s)/ staff lists/ photographs <p>Once the name and gender are changed in the individual's iTrent account, HR will usually notify IT to change the name on the individual's current email account.</p>
	<input type="checkbox"/> Agree the date of living full time in the new gender in the workplace.
	<input type="checkbox"/> Facilitate external name/gender changes (made by the individual)
	<p>Any external communication the individual needs to have: individual to arrange for these documents to be changed themselves, as necessary, and to then provide any as required to the University for its records. The University may need to notify certain</p>

	<p>external organisations (e.g. payroll, HMRC, pensions and insurance providers) of a name and gender change. Such disclosure will be made on a ‘need to know’ basis.. Any other communication to be made on behalf of the individual must have consent, e.g. communication with charities and funding bodies should be agreed with the individual.</p> <ol style="list-style-type: none"> 1. HMRC 2. DVLA 3. HM Passport Office 4. Home Office 5. DBS 6. Relevant professional bodies 7. Bank or building society
	<p>Additional questions/issues to be considered</p>
	<p><input type="checkbox"/> Is the individual taking any extended time off? Is additional paid/unpaid leave needed?</p>
	<p><input type="checkbox"/> Is time off needed for medical appointments?</p>
	<p><input type="checkbox"/> How can ongoing non-medical procedures be accommodated? People may have other appointments relating to transition, such as laser hair removal, or sessions with a speech therapist; an individual transitioning female-to-male may require structured programme of exercise to maximise the effect of hormone treatment. Consider whether these could be accommodated by working flexible hours and/or homeworking.</p>
	<p><input type="checkbox"/> Is the individual having any planned surgery?</p> <p>Recovery periods may be short or extended, depending on the surgery, and any complications, and several surgeries may be needed. Staff will receive standard sickness leave, but may wish to discuss the possibility of additional paid/unpaid leave.</p>
	<p><input type="checkbox"/> What arrangements have been made to ensure the individual is able to return to work? The Occupational Health Service may help to plan a phased return to work.</p>
	<p><input type="checkbox"/> Are any temporary adjustments needed to duties during hormone treatment or following surgery? e.g. avoiding heavy lifting. Individuals may experience fatigue or mood fluctuations. (A referral to Occupational Health may be made for advice on any adjustments required).</p>
	<p><input type="checkbox"/> Should any permanent changes to duties be considered following medical treatment (for example in the case of a job where physical strength is required)?</p>
	<p><input type="checkbox"/> Are there any risks to the individual e.g. in relation to third parties or media intrusion, and how will they be handled?</p>
	<p><input type="checkbox"/> Has workload during transition been discussed with the manager? There may need to be some flexibility on deadlines, especially if there are unexpected side effects or surgical complications.</p>
	<p><input type="checkbox"/> Which facilities (toilets, changing rooms etc) will be used and from when?</p>
	<p>Support for the individual</p>
	<p><input type="checkbox"/> Does the individual have a support network? Be sensitive to the fact that transitioning is a time that family/friendships/personal relationships may be strained and some individuals may be isolated from their previous support network.</p>

	<input type="checkbox"/> Is the individual receiving gender identity counselling through a specialist clinic?
	<input type="checkbox"/> Is the individual aware of the LGBTQ+ Staff Network?
	<input type="checkbox"/> Is the individual aware of the University's Employee Assistance Programme? Is the individual aware of the University's Mental Health First Aiders?
	<input type="checkbox"/> Is the individual aware that support may be available through trade unions?
	Communication
	<input type="checkbox"/> How and when will colleagues and students in department and University be informed? Can a statement be agreed? Does the individual want to do this themselves or do they want this to be done for them and if so by whom?
	<input type="checkbox"/> How and when will external contacts be informed?
	<input type="checkbox"/> Is there a training need (e.g. for colleagues)?
	Overseas travel
	<input type="checkbox"/> Does the role require travel? A risk assessment should be carried out to determine whether the individual may be at risk because of their trans status. How will the individual get medical care, including obtaining medication? Heads of Department delegate the responsibility for risk assessment to individual managers, with advice from department safety officers.