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Title: Key Equality Policies
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Issue

A number of the University's Key Equality Policies have been in need of review. The opportunity has been taken to also review how we build these documents to make them more user friendly.

Recommendation

That the policies are considered and further amended if needed/agreed by the Committee.

Resource Implications

None – these policies cover areas already attended to by the University and both modernise and clarify the documents they replace.

Risk Implications

To leave existing policies without updating them run the risk of legal non compliance by the University as well as potentially misinforming staff and managers in terms of employment rights.

Equality and Diversity

Equality is at the core of each of these papers – the subject matter is self explanatory covering Disability and Transgender/Non Binary issues.

Timing of decisions

The Committee are asked to agree papers, subject to further comment during discussion at the Committee.

Further Information

Further information is available from: Santha Forder, Extension 2936, email: s.forder@uea.ac.uk

DISABILITY IN EMPLOYMENT CODE OF PRACTICE

1.0 Introduction

- 1.1 The University of East Anglia, referred to as “the University” throughout this document, has developed this Code of Practice to demonstrate the steps that will be taken to ensure equality in respect of disability and to ensure its compliance with the Equality Act 2010.
- 1.2 This Code of Practice is underpinned by the University’s Equality & Diversity Strategy/Action Plan and the Equality & Diversity in Employment Code of Practice, which can be accessed on the Human Resources Division’s intranet sites.
- 1.3 The University is committed to ensuring that it makes every reasonable effort to provide a supportive, inclusive environment to staff with disabilities and staff that acquire disabilities during the course of their employment.
- 1.4 The aim of the University is to remove barriers and/or make reasonable adjustments to the working environment and/or policies, procedures and processes which could disadvantage staff with disabilities, and wherever possible support disabled staff in being retained in the employment of the University.
- 1.5 This Code of Practice sets out the steps that will be taken to achieve disability equality in respect of recruitment and employment. Information relating to recruitment and selection can be accessed on the Human Resources intranet.

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- 1.6 This Code of Practice should be read in conjunction with other key University documents, including but not limited to the Equality & Diversity Code of Practice, Recruitment & Selection Guidelines, Sickness Absence Guidelines, Flexible Working Guidelines and Capability Guidelines.

2.0 Purpose

- 2.1 The purpose of this Code of Practice is:
- to raise the awareness of the University's staff about disability issues and their responsibilities under the Equality Act 2010;
 - provide guidance to managers to ensure that disabled staff are supported in their work activity at the University;

3.0 Scope

- 3.1 This Code of Practice applies to all staff employed by the University, individuals registered on staffing registers, individuals holding honorary and/or secondment contracts, individuals undertaking work experience and self-employed individuals.

4.0 Responsibility of all staff

- 4.1 All staff are required to comply with this Code of Practice and with the relevant legal requirements. Anyone with responsibility for managing staff has additional responsibilities which are detailed in Section 5.0.
- 4.2 Staff are encouraged to disclose their disability and staff can update their personal circumstances online via the UEA Portal or in writing to Human Resources. See *Briefing Note 1 – Disclosing a Disability* for further information.

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- 4.3 Staff should consider making their manager and/or Human Resources Manager aware of changes to their circumstances, particularly where this relates to their health and safety in the workplace.
- 4.4 All staff are required to complete the online Equality and Diversity training module that can be accessed via the Equality & Diversity, Human Resources and CSED webpages.

5.0 Responsibility of all managers

- 5.1 All individuals with management and supervisory responsibility are responsible for the implementation of this Code of Practice within their Service, Faculty, School, Department, Office areas.
- 5.2 Managers need to be aware of their responsibilities under this Code of Practice and under the Equality Act 2010 and ensure that they are carried out appropriately.
- 5.3 Managers must take steps to ensure that disabled staff have the opportunity to discuss whether they require any particular equipment or arrangements in the workplace and, in consultation with Human Resources, ensure that appropriate and steps are taken to make reasonable adjustments in a timely manner. See *Briefing Note 2 – Adjustments under the Equality Act 2010* for further information.
- 5.4 The term “reasonable” is not defined under the Act and therefore it is for the University to determine what is considered as “reasonable” taking into account the size and resources of the University. **Such discussions must involve Human Resources.**

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5.5 Reasonable adjustments might include, but are not limited to:

- Altering working hours
- Providing relevant training
- Buying or modifying equipment
- Modifying instruction or reference materials
- Modifying recruitment testing or assessment procedures
- Providing a reader or interpreter
- Providing specialist software
- Redeploying to an alternative post
- Making adjustments to buildings

6.0 The Legislation – Equality Act 2010

6.1 The main provisions of the Equality Act 2010, referred to as “the Act” throughout this document, came into force on 1 October 2010 and the provisions relating to positive action in recruitment and the public sector duty came into effect on 1 April 2011.

6.2 The Act consolidated the many equality and anti-discrimination laws, including the Disability Discrimination Act, into a single Act covering nine protected characteristics:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

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6.3 The Act makes it unlawful to discriminate on the grounds of disability. Acts of discrimination can occur in a number of ways, which include:

- **Direct discrimination** where an individual is treated less favourably than another individual because they have a disability.
- **Indirect discrimination** occurs where a condition, rule, policy or practice that is applied equally to everyone has the effect of disadvantaging a particular group of individuals who are disabled.
- **Discrimination by association** is direct discrimination and occurs where an individual is treated less favourably because they associate with another individual who has a disability.
- **Discrimination by perception** is direct discrimination and occurs where an individual is treated less favourably because they are perceived to have a disability. The individual does not need to have a disability.
- **Discrimination arising from disability** occurs where a disabled person has been treated unfavourably because of something arising in consequence of their disability.
- **Harassment** is unwanted conduct related to a person's disability that has the purpose or effect of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that person.

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- **Victimisation** happens when an individual is treated less favourably because they have made or supported a complaint or raised a grievance, or are suspected they might do so under the Act.

6.4 Under the Act (section 6 and Schedule 1 of the Act) a person is recognised as having a disability if he or she has a physical or mental impairment and the impairment has a substantial and long-term adverse effect on his or her ability to carry out normal day-to-day activities.

6.5 Although, only adjudicating bodies, such as an Employment Tribunal, can determine finally whether an individual has an impairment that meets the definition of a disability under the Act and is considered to be a disabled person for the purposes of the Act, the University will make a decision based on a range of information.

6.6 Details regarding definitions can be found in the Equality Act 2010 and in the Office for Disability Issues document Equality Act 2010 Guidance.

6.7 There are a number of conditions that are not considered an impairment. These include, but are not limited to, hay fever, tattoos and addiction or dependency on alcohol, non-prescribed drugs, and nicotine.

7.0 **Disability Related Sickness Absence and Disability Related Leave**

7.1 The University maintains records of sickness absence declared by staff and proactively monitors the absence levels of staff. Where an individual has a disability some of their sickness absence may be related to their disability.

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- 7.2 All cases of sickness absence, whether related to an individual's disability or not, are managed under the University's Sickness Absence Guidelines. These Guidelines provide a framework for discussing an individual's absence and support mechanisms, and identifying those absences that are disability related.
- 7.3 Where an individual has a declared disability, consideration will be given to potential adjustments to support the individual in attending the workplace. This might include an adjustment to the absence triggers following a management referral to Occupational Health by Human Resources to try and determine how often in a given year an individual might be absent from work due to their disability. These matters are dealt with as fairly and as consistently as possible on a case by case basis.
- 7.4 Time off for disability related appointments are managed within the principles of the University's Time off Work: Employee Rights and Management Guidelines. Where individuals have chosen to formally disclose to Human Resources that they have a disability or a long term health condition consideration is given to reasonable support mechanisms and/or adjustments.
- 7.5 In the first instance individuals can discuss the potential for disability related leave with their manager and/or a member of the Human Resources team and a management referral to Occupational Health is likely to be necessary. Consideration of adjustments is given on a case by case basis as the needs of individuals can be very different and can change over time.
- 7.6 Disability related leave should not be used to extend periods of Occupational Sickness pay or be used for disability related sickness absence. These matters are managed within the University's Sickness Absence Guidelines. Human Resources can provide clarification on this matter.

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8.0 Monitoring and Review

8.1 The Human Resources Division, on behalf of the University, is responsible for monitoring and reviewing the implementation of this Code of Practice to ensure its effectiveness.

8.2 The University will continue to monitor and review the impact of its policies, procedures and practices on staff and applicants for employment with disabilities and take positive action where appropriate to ensure that its policy on disability is fully implemented.

8.3 Such action will include the provision of training and awareness, particularly for key staff groups where monitoring indicates that an area of policy, procedure or practice requires revision.

8.4 The University will develop and keep under review indicators of the impact of its policies and practices in employment and the provisions of other services. These will include as a minimum a disability profile for:

- Staff employed at the University
- Applicants for and those obtaining employment
- Applicants for and those receiving training
- Applicants for and those obtaining promotion
- Staff being appraised
- Staff whose attendance at work is being measured through the sickness absence guidelines
- Staff whose performance is being measured through the formal capability process

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- Staff involved in formal disciplinary and grievance processes (including the outcome of said processes)
- Staff leaving the University

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BRIEFING NOTE 1 – DISCLOSING A DISABILITY

1.0 How to disclose a disability

1.1 Staff can update their personal information by logging into the UEA's Self Service Portal at <https://myview.uea.ac.uk/dashboard/> . Once logged in go to the 'Equal Opportunities' section of 'My Details' an individual can edit their personal details.

1.2 The information provided will be kept confidential, will be used for monitoring purposes only and will be published in a format that will not identify individuals.

2.0 Why disclose a disability

2.1 In general it is recognised that there is under-reporting of disability within the workplace. Monitoring of 3396 staff at the University has identified that as at August 2016 184 staff have disclosed they have a disability. The number of staff disclosing a disability has increased steadily in recent years.

2.2 The University appreciates that some staff might be concerned about disclosing their disability and if this is the case, staff are welcome to speak with Human Resources Manager/Advisers on a confidential basis to ask any questions they may have about disclosing their disability.

2.3 Some staff might be concerned about:

- Obtaining or retaining a job at the University
- Gaining promotion
- How their manager might respond

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- Asking for help because they feel they can manage or because they do not wish to make a fuss
- Identifying a condition that affects them and feeling embarrassed about telling others.

2.4 It is important that an individual discloses their disability. The appropriate manager and or Human Resources Manager/Adviser will be able to discuss an individual's needs and consider any reasonable adjustments that will aid them in commencing in post at the University; help them to carry out their day to day activities at work; and, work towards retaining them if they become disabled whilst employed. In addition, an individual may be able to seek further funding through Access to Work. See *Briefing Note 4 – Access to Work*.

2.5 It should also be noted that not all individuals who have a disability require any adjustments whilst at work.

2.6 As more staff disclose their disability, the University will be able to gather more realistic data and make more informed decisions in respect of issues that relate to staff with disabilities and their needs in the workplace.

3.0 Definition of Disability

3.1 Under the Act (section 6 and Schedule 1 of the Act) a person is recognised as having a disability if he or she has a physical or mental impairment and the impairment has a substantial and long-term adverse effect on his or her ability to carry out normal day-to-day activities.

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- 3.2 A disabled person is someone who has a physical or mental impairment which has a substantial and long term adverse effect on his/her ability to carry out normal day to day activities.
- 3.3 Please note that a physical impairment includes sensory impairment such as blindness, partial sight and hearing loss. A mental impairment includes learning difficulties and mental illness.
- 3.4 Day-to-day activities are normal activities carried out by most people on a regular basis and include mobility (moving unaided from place to place); manual dexterity (use of hands); physical co-ordination; ability to lift, carry or move everyday objects; speech, hearing or sight (excluding sight corrected by wearing glasses or contact lenses); memory or ability to concentrate, learn or understand; being able to recognise physical danger.
- 3.5 Detailed below are some examples of impairments or long term conditions (likely to last longer than 12 months or likely to recur) that could be considered as a disability (please note this list is not exhaustive): diabetes, epilepsy, multiple sclerosis, cancer, speech impairment, hearing impairment, dyslexia, severe facial disfigurement, Crohn's disease, mental illness, clinical depression, schizophrenia, HIV, muscular dystrophy, cerebral palsy, heart disease, learning difficulties.
- 3.6 Individuals who have HIV, cancer or multiple sclerosis are automatically treated as disabled under the provisions of the Act from the point of diagnosis.

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3.7 The Act defines long-term impairment as “it has lasted for at least 12 months”; “it is likely to last for at least 12 months”; or, “it is likely to last for the rest of the life of the person affected”.

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BRIEFING NOTE 2 – REASONABLE ADJUSTMENTS UNDER THE EQUALITY ACT 2010

1.0 Legal Duty

- 1.1 Under the Equality Act 2010 the University has a legal duty to make reasonable adjustments to ensure that a member of staff or potential member of staff is not disadvantaged by a provision, criterion or practice, or by a physical feature of an employer's premises, or by the non-provision of an auxiliary aid.
- 1.2 The term "reasonable" is not defined under the Act and therefore it is for the University to determine what is considered as "reasonable" taking into account the size and resources of the University, as well as the individual circumstances of each case.
- 1.3 Each request must be considered on its own merits and a decision made in a timely manner as to whether the request is reasonable and will be put in place. **Such discussions must involve Human Resources.**

2.0 What the duty applies to

- 2.1 The legal duty applies to our recruitment and selection processes, as well as within employment, and as such it is essential that we have mechanisms in place to enable reasonable adjustments to be made within a reasonable timeframe.

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3.0 The type of adjustments that can be considered during the recruitment process

3.1 Discrimination can take place at any stage of the recruitment and selection process and during adjustments may be required as follows:

3.1.1 At the advertisement and provision of recruitment information stage it may be necessary to provide recruitment information in alternative formats when requested, for instance, large print, audio, Braille, disk. All recruitment brochures contain a strapline informing applicants about alternative formats and how to request these.

3.1.2 At the application stage it may be necessary to accept applications via alternative methods, for instance, audio tape, disk.

3.1.3 In respect of the application stage applicants are invited to disclose on the Equal Opportunities form whether they have a disability and if so, whether they require any adjustments to be considered for the interview and testing; and if successful what adjustments they may need in the workplace to help them perform their duties.

3.1.4 Human Resources will liaise as necessary with the recruiting manager, applicant(s) and successful candidates in respect of any adjustment requests needing to be considered.

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3.1.5 The invitation to interview letter provides a second opportunity for an individual to disclose a disability and request adjustments to be put in place for the interview and testing.

3.1.6 For the interview and testing stage adjustments may need to be made to the layout and/or location of the interview and testing facilities to ensure accessibility; alternative procedures for testing/assessment put in place, for instance, oral rather than a manual test; extra time to carry out an assessment; providing alternative equipment or allowing a candidate to bring necessary equipment, for instance, a keyboard; or, providing an interpreter, amanuensis or reader.

4.0 The type of adjustments that can be considered within employment

4.1 Managers should liaise with Human Resources Managers/Advisers regarding requests received for adjustments related to an individual's disability.

4.2 New employees and employees changing posts at UEA are required to complete an Occupational Health Assessment form in order that Occupational Health can give satisfactory clearance and provide any recommendations for adjustments. This process provides a further opportunity for an individual to disclose a disability and to give Occupational Health permission to share this personal information on a confidential basis with Human Resources and where agreed, the manager.

4.3 Each request is considered on its own merit on a case by case basis. The type of adjustments that may be considered reasonable by the University might include, but are not limited to:

- Altering pattern of working hours
- Providing relevant training
- Buying or modifying equipment

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- Modifying instruction or reference materials
- Providing specialist software
- Adapting the role where practical without impacting on colleagues
- Making adjustments to building
- Redeploying to an alternative post

4.4 For links to sources of information please go to {insert link}.

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BRIEFING NOTE 3 – DIFFERENT TYPES OF DISABILITY DISCRIMINATION

1.0 Legal Duty

1.1 Under the Equality Act 2010 the University has a legal duty to make reasonable adjustments to ensure that a member of staff or potential member of staff is not disadvantaged by a provision, criterion or practice, or by a physical feature of an employer's premises, or by the non-provision of an auxiliary aid.

2.0 Different Types of Disability Discrimination

2.1 Detailed below are explanations and examples of the six main types of disability discrimination sourced from the Equality & Human Rights Commission¹.

2.1 Direct discrimination

This happens when someone treats you worse than another person in a similar situation because of your disability.

- For example, during an interview, a job applicant tells the potential employer that he has multiple sclerosis. The employer decides not to appoint him even though he's the best candidate they have interviewed, because they assume he will need a lot of time off sick.

¹ Source: the Equality & Human Rights Commission advice and guidance on disability discrimination <https://www.equalityhumanrights.com/en/advice-and-guidance/disability-discrimination#h3>

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2.2 Indirect discrimination

Indirect discrimination happens when an organisation has a particular policy or way of working that has a worse impact on people who share your disability compared to people who don't.

- For example, an employer requires all job applicants to use an online recruitment portal. The portal is not accessible for people with visual impairments and you cannot use screen reading software with it. Unless the employer offered alternative ways for job applicants to apply, this would be indirect discrimination.

Indirect disability discrimination can be permitted if the organisation or employer is able to show that there is a good reason for the policy. This is known as [objective justification](#).

2.3 Failure to make reasonable adjustments

Under the Act employers and organisations have a responsibility to make sure that disabled people can access jobs, education and services as easily as non-disabled people. This is known as the 'duty to make reasonable adjustments'.

Disabled people can experience discrimination if the employer or organisation doesn't make a reasonable adjustment. This is known as a 'failure to make reasonable adjustments'.

- For example, an employee with a mobility impairment needs a parking space close to the office. However, her employer only gives parking spaces to senior managers and refuses to give her a designated parking space.

What is reasonable depends on a number of factors, including how big the organisation making the adjustment is. If an organisation already has a

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number of parking spaces it would be reasonable for them to designate one close to the entrance for the employee.

2.4 Discrimination arising from disability

The Act also protects people from discrimination arising from disability. This protects you from being treated badly because of something connected to your disability, such as having an assistance dog or needing time off for medical appointments. This does not apply unless the person who discriminated against knew you had a disability or ought to have known.

- For example, a private nursery refuses to give a place to a little boy because he is not toilet trained. His parents have told them that he isn't toilet trained because he has Hirschsprung's Disease, but they still refuse to give him a place. This is discrimination arising from the little boy's disability.
- For example, in the workplace if an employer automatically excludes any employee with a high level of sickness absence from receiving a bonus.

But if the organisation or employer can show that there is a good reason for the way they treat you, then it will not be discrimination arising from disability.

- For example, an airline pilot whose eyesight has deteriorated is no longer allowed to fly planes. This is known as objective justification.

2.5 Harassment

Harassment occurs when someone treats you in a way that makes you feel humiliated, offended or degraded.

- For example, a disabled woman is regularly sworn at and called names by colleagues at work because of her disability.

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Harassment can never be justified. However, if an organisation or employer can show it did everything it could to prevent people who work for it from behaving like that, you will not be able to make a claim for harassment against it, although you could make a claim against the harasser.

2.6 Victimisation

This is when you are treated badly because you have made a complaint of disability related discrimination under the Equality Act. It can also occur if you are supporting someone who has made a complaint of disability related discrimination.

- For example, an employee has made a complaint of disability discrimination. The employer threatens to sack them unless they withdraw the complaint.

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BRIEFING NOTE 4 – ACCESS TO WORK

1.0 Legal Duty

1.1 Under the Equality Act 2010 the University has a legal duty to make reasonable adjustments to ensure that a member of staff or potential member of staff is not disadvantaged by a provision, criterion or practice, or by a physical feature of an employer's premises, or by the non-provision of an auxiliary aid.

2.0 Funding of adjustments

2.1 Where the University agrees as a reasonable adjustment to provide equipment, etc. that is not standard issue for individual undertaking the specific job/duties, normally the individual's department will pay for any associated costs.

2.2 An individual may be able to obtain funding from Access to Work for costs towards practical support that would not necessarily be provided by an employer as a reasonable adjustment.

3.0 Access to Work

3.1 The Access to Work scheme provides help to individuals who have a disability that makes undertaking work difficult and subject to approval can fund up to 100% of the funding needed. Detailed below is information sourced from Disability Rights UK¹ regarding the type of help that can be provided:

- A communicator, advocate or BSL interpreter for a job interview, if you're D/deaf or have communication difficulties.

¹ Source: the 'Disability Rights UK Factsheet F27-Acess to Work' <http://www.disabilityrightsuk.org/access-work>

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- A support worker, such as a reader for somebody with a visual impairment; communicator for a D/deaf person; a specialist job coach for a person with a learning difficulty; or a helper for personal care needs at work.
- Specialist equipment (or alterations to existing equipment) to suit your particular needs.
- Alterations to premises or a working environment to make it more accessible
- Help towards the additional costs of taxi fares if you cannot use public transport to get to work.

4.0 Applying for Access to Work funding

- 4.1 The University can advise an individual to apply for Access to Work, but cannot make the application on behalf of the individual. Individuals can seek advice from Human Resources on Access to Work.
- 4.2 To obtain contact details for Access to Work and to apply online go to <https://www.gov.uk/access-to-work/overview> .
- 4.3 Ensure you have the following details² when contacting Access to Work:
- your National Insurance number
 - your workplace address, including your postcode
 - the name, email address and work phone number of a workplace contact (your manager, for example)

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² Source: GOV.UK website <https://www.gov.uk/access-to-work/apply>

BRIEFING NOTE 5 – TRANSGENDER

1.0 Introduction

1.1 The University of East Anglia, referred to as “the University” throughout this document, has developed this Briefing Note to demonstrate the steps that will be taken to ensure equality in respect of transgender and to ensure its compliance with the Equality Act 2010.

2.0 Transgender

2.1 The trans community is a diverse group and trans people have a range of identities and terms for them. Currently the Equality Act 2010 uses the term ‘Transsexual’, whilst other terms include ‘Gender Dysphoric’ and ‘Transgender’. These terms relate to individuals who seek to adjust their lives to live as a member of the opposite sex.¹ In this document the term “transgender” is used, which also includes non-binary. An explanation of terms used in respect of transgender is provided in *Briefing Note 6 – Glossary of Transgender terms*.

3.0 The Legislation

3.1 The Equality Act 2010 makes it unlawful to discriminate against an individual on the grounds of gender re-assignment in employment and vocational training. This applies where an individual intends to undergo gender re-

¹ Source: The Gender Trust www.thegendertrust.org.uk

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assignment; or, the individual is undergoing gender re-assignment; or, the individual has at some time in the past undergone gender re-assignment.

- 3.2 The University has a legal duty to eliminate discrimination, harassment, victimisation that is prohibited under the Equality Act 2010; to promote equality of opportunity; to promote good relations.
- 3.3 In April 2005 the Gender Recognition Act 2004 (GRA) came into force providing trans people with the opportunity to apply for legal recognition in their acquired gender. If successful in their application an individual is issued with a Gender Recognition Certificate and is entered onto the Gender Recognition Register. Please note that it is illegal to request to see an individual's Gender Recognition Certificate.
- 3.4 The Data Protection Act 1998 (DPA) places responsibilities and obligations on organisations which process data about living individuals. It also gives legal rights to individuals in respect of personal data held about them by others. The DPA recognises that certain types of sensitive personal data should be treated with particular regard. This includes data on physical or mental health or condition and sexual life.

4.0 University Documents

- 4.1 This Briefing Note is underpinned by the University's Equality and Diversity in Employment Strategy/Action Plan and broader quality strategy information can be found at {insert link}.

5.0 Confidentiality

- 5.1 Disclosure is carried out on a 'need to know' basis and it is important that the information disclosed is not shared beyond this 'need to know' group thus

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leading to the transgender man or woman being 'outed'. This could have serious implications and breaches of confidentiality of this nature will be dealt with seriously, which could lead to formal disciplinary action.

- 5.2 The GRA indicates that information about an individual entered on to the Gender Recognition Register is confidential and disclosure of this information is prohibited.
- 5.3 The DPA sets out a number of criteria for individuals handling personal data. This includes ensuring that the data is kept securely and is processed only for the purposes for which they were collected; is not divulged to third parties without the subject's consent; is relevant and up to date; and, is disposed of as confidential material when no longer needed for the purposes for which they were collected.

6.0 What are your responsibilities?

- 6.1 All staff can expect to be treated with dignity and respect at all times and not to be treated less favourably than others, or subjected to harassment or bullying due to their gender or perceived gender.
- 6.2 If you are approached by a colleague, student or member of the public enquiring as to whether an individual is a transgender, has changed gender or undergone a sex change, it is essential that you do not disclose confidential information. By their asking this type of question it will be evident that they are not part of the 'need to know' group. It is suggested that you state that you are unable to clarify this for them and that they will need to speak directly with the individual concerned. By responding in this manner it means that individuals who have had the information disclosed to them are not put in a difficult situation whereby they could be drawn into general

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discussion and/or gossip and potentially put themselves at risk of disciplinary action.

6.3 If you believe that an individual is being subjected to inappropriate behaviour, please ensure that you discuss your concerns with your Manager, in order that options can be discussed and the matter dealt with appropriately and in a timely manner. You can contact your Human Resources Manager/Adviser and/or UEA Staff Pride Group's Dignity & Respect Champions. Details can be found at <https://portal.uea.ac.uk/csed/staff-networks/dignity-and-respect-in-the-workplace/who-to-speak-to> and <https://portal.uea.ac.uk/csed/staff-networks>.

6.4 It is your responsibility to ensure that you do not unlawfully discriminate against, harass, bully or victimise any individual due to their gender or perceived gender. You are personally responsible for your own behaviour and it is important to note that acts of unlawful discrimination will not be tolerated and you could put yourself at risk of disciplinary action.

7.0 Sources of other information

7.1 The Equality Challenge Unit's guidance "Employing Transsexual People in Higher Education" is available at <https://www.uea.ac.uk/hr/employee-information/equal-opportunities/equal-opportunities>.

7.2 Other useful information can be found at Stonewall <http://www.stonewall.org.uk/>, The Gender Trust www.gendertrust.org.uk, Gender Identity Research and Education Society (GIREs) <http://www.gires.org.uk/> and Press for change www.pfc.org.uk.

7.3 The Equality and Human Rights Commission www.cehr.org.uk.

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BRIEFING NOTE 6 – GLOSSARY OF TRANSGENDER TERMS

The following list sourced from the Equality Challenge Unit¹ provides an explanation of some terms used which relate to transgender.

FtM

Female to male transsexual. A person who is changing, or has changed, gender from female to male.

Gender

Expressed in terms of masculinity or femininity, gender describes how people feel about themselves and how they expect other people to behave towards them. The overwhelming majority of the population has a gender that accords with their anatomical sex, which is why it is sometimes difficult to understand that the two are different. Gender is less clearly defined than anatomical sex, and does not necessarily represent a simple binary choice: some people have a gender identity that is neither clearly female nor clearly male. Gender consists of two related aspects: gender identity, which is the person's internal perception and experience of their gender; and gender role, which is the way that the person lives in society and interacts with others, based on their gender identity. It should be noted, however, that for the purposes of the law, gender is binary – people can only be male or female.

Gender Dysphoria

A person with gender dysphoria can experience anxiety, uncertainty, or persistently uncomfortable feelings about their birth gender. They may feel that they have a

¹ Source: the Equality Challenge Unit's publication "Employing Transsexual People in Higher Education" www.ecu.ac.uk

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gender identity that is different from their anatomical sex. This in turn may lead to a fear of expressing their feelings and a fear of rejection, which may lead to deep anxiety, leading to chronic depression and possibly attempted suicide. Sometimes a person with gender dysphoria assumes an identity in the opposite sex. This may involve undergoing hormone and perhaps surgical treatment to change their sex physically, although medical treatment is not a prerequisite of transsexualism or of being recognised in the acquired gender.

Gender Recognition Certificate

This certificate is issued by a Gender Recognition Panel. A holder of a full Gender Recognition Certificate (GRC) is legally recognised in his or her acquired gender for all purposes. This means that the person in question now belongs to the opposite gender in both a legal and social context. The GRC will be issued to an applicant if he or she satisfies the panel that they fulfil all the criteria outlined in the Gender Recognition Act 2004. The Act requires that the applicant has or has had gender dysphoria, has lived in the acquired gender for two years prior to the application, and intends to live permanently in the acquired gender. A full GRC also gives the holder the means to obtain a new birth certificate.

Hermaphroditism or Intersexuality

Hermaphroditism or Intersexuality occurs when the anatomical sex is ambiguous. It may or may not be accompanied by various degrees of gender dysphoria. The condition may arise due to certain congenital disorders or hormone imbalances in the foetus or placenta. Intersexuality means having some of the same physical characteristics of both sexes, but these are generally secondary characteristics. Intersexuality is rare: it means having both a penis and one or more ovaries.

MtF

Male to female transsexual. A person who is changing, or has changed, gender from male to female.

Physical Sex

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Sex as determined by the match between body and sex organs, i.e. male, female or intersex. Sex refers to someone's physical or anatomical sex – in other words, which type of genitals they possess. Except in very rare cases of people who are intersexed, anatomical sex is well defined and easy to interpret.

Sexual Orientation

This can be an orientation towards persons of the same sex (lesbians and gay men) or an orientation towards a person of the opposite sex (heterosexual) or an orientation towards persons of the same sex and the opposite sex (bisexual). The concept of sexual orientation is frequently allied with transsexual issues (often abbreviated to LGBT). Transsexual people, however, can be heterosexual, lesbian, gay or bisexual.

Trans

A generic term generally used by those who identify themselves as transgender, transsexual or transvestite.

Transgender

An umbrella term used to include transsexual people, transvestites, and those with gender dysphoria.

Transsexual person

A person who feels a consistent and overwhelming desire to transition and fulfil their life as a member of the opposite sex. Someone in this position will have the medical condition gender dysphoria.

Transvestite

This is the clinical name for a cross-dresser, a person who dresses in the clothing of the opposite sex. Generally, these persons do not wish to alter their body and do not necessarily experience gender dysphoria.

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UEA Equality & Diversity Committee – approval date	Due to be considered 31 October 2016
Equality Impact Assessment undertaken	Yes
Next Review Date	July 2017
Review frequency	Annually
Author	S Forder - Human Resources Division
Document Ref.	UEA Briefing Note 6 – Glossary of Transgender terms final draft 241016

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EDC16D002 h

Title: Guidance on Practical Support for Staff Transitioning
Author: Helen Murdoch
Date: October 2016
Circulation: Equality and Diversity Committee
Agenda: EDC16A001
Status: Open
Version: Final

Issue: Although gender transition is comparatively uncommon it has increased in recent decades due to the greater accessibility of support and improved societal understanding. However, this remains a very sensitive area and those transitioning can be very vulnerable during and after the process. The University has established much good practice for this group, but written guidance will provide clear and unambiguous signposting both for those transitioning and those supporting them.

Recommendation: Feedback on the proposed guidance is sought from the Committee.

Resource Implications: There are no additional resource implications.

Risk Implications: Although this group is believed to be relatively low in numbers they are considered highly vulnerable and the introduction of guidance is good practice. The group is also covered by the Equality Act 2010 and the guidance seeks to increase the University's capacity to respond with proper support and build a culture in which individuals feel empowered to disclose if they decide to transition gender. In turn this reduces the risk of any adverse experiences for either the individual or the University.

Equality and Diversity: The guidance stems from the core of good practice on Equality and Diversity.

Timing of decisions:

Further Information: Further information is available from h.murdoch@uea.ac.uk

Background: the University has successfully supported a number of individuals through transition. This guidance makes the support network explicit with a 'user friendly' approach.

Discussion: see body of document, presented in a question and answer format.

PRACTICAL SUPPORT FOR STAFF TRANSITIONING

Who is this guide for and what's inside?

This guide is aimed at UEA staff who either experience gender dysphoria* or who are currently transitioning gender or who have transitioned gender in the past and are looking for relevant avenues of support. The guide outlines:

- UEA aims, values and policy
- What the law covers
- Practical Matters
- Support Routes (internal and external)

UEA's Policy of Support for Trans and Non-Binary People

1. Introduction

One of the University's aims is to create a safe and welcoming environment for learning and working that embraces all the differences in our community and encourages all members of the University to value diversity.

The **trans and non-binary** community is a diverse group including a range of identities and terminologies. Broadly, this group includes anyone who identifies wholly or partially as not being the gender they were assigned at birth. This includes, but is not limited to, people who:

- identify wholly with another gender,
- are genderfluid,
- are bigender,
- have no gender or
- fall under the non-binary umbrella,
- as well as trans women and trans men.

Please note, the word 'transgender' should be used as an adjective, not a noun. It is therefore never, ever appropriate to refer to an individual as 'a transgender', or to transgender people, as transgenders'.

Trans and non-binary people may take steps to 'transition' – helping to bring their presentation in line with their gender.

These steps *may* include:

- Social transition where name, pronoun, dress changes
- Medical transition

Gender reassignment refers to a range of procedures which may be:

- medical (e.g. surgery, HRT),
- social (name change, coming out) and/or
- legal (e.g. deed poll, gender recognition certificate).

2. The Legislation

A range of legislation is in place ensuring rights for trans and non binary people. A brief summary is given below with more detail shown at Appendix 1:

Current legislation includes the:

- Data Protection Act 1998
- Gender Reassignment Regulations 1999
- Gender Recognition Act 2004
- Equality Act 2010

The Data Protection Act 1998 (DPA) places responsibilities and obligations on organisations which process data about living individuals. It also gives legal rights to individuals in respect of personal data held about them by others. The DPA recognises that certain types of sensitive personal data should be treated with particular regard. This includes data on physical or mental health or condition and sexual life.

The Gender Recognition Act outlines the criteria and process through which people can obtain a Gender Recognition Certificate. This certificate enables people to obtain a birth certificate, and other documentation, in their new gender. It also made it illegal to disclose information about someone's gender reassignment/transition/status to another without the trans individual's explicit consent.

The Equality Act simplified some aspects of equality law and introduced greater parity of rights between the nine identified protected characteristics, of which gender reassignment is one.

The law covers those people who are 'proposing to undergo, are undergoing or have undergone a process (or part of a process) for the purpose of reassigning the person's sex by changing physiological or other attributes of sex'. The Act uses the term transsexual and identifies a number of circumstances in which it is unlawful to discriminate against transsexual people:

Provision of:

- goods
- services
- facilities
- public functions

It is not a requirement to undergo medical treatment or to be under medical supervision to be included as transsexual.

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The Act makes it unlawful to discriminate against transsexual people in the following ways:

- **Directly** (e.g. in recruitment by refusing a job to someone on the basis that they are, or that you perceive them to be, or that they have friends or relatives who are, transsexual);
- **Indirectly** (e.g. by putting in a provision, criteria or practice which disadvantages transsexual job applicants or employees without robust, objective justification)
- **Harassment** of a job applicant or employee on the basis of gender reassignment, or sexually, or by subjecting someone to a disadvantage because they reject or submit to harassment
- **Victimisation** of an applicant or employee because they have brought a complaint about discrimination or because they have supported a colleague who has brought such a complaint.

Public Authorities are also required, as part of the Public Sector Equality Duty, to work proactively to eliminate discrimination, harassment and victimisation in connection with any protected characteristic including transsexual people or in respect of gender reassignment and also to foster good relations between people with different protected characteristics including transsexual people.

3. Confidentiality

It is important to understand the highly sensitive nature of any information or data relating to an individual who discloses they may transition, are transitioning, have transitioned or will transition gender. If such information is disclosed to any member of University staff they should seek guidance on an anonymised basis (i.e. **without naming** the individual asking for support) from one of the following:

- Human Resources Team
- Equality and Diversity Office
- Student Support Service

Further disclosure is carried out **only** with the agreement of the individual and on a strictly 'need to know' basis. It is important that the information disclosed is not shared beyond this 'need to know' group thus leading to the trans man or woman being 'outed'. **This could have serious implications and breaches of confidentiality of this nature will be taken seriously and dealt with firmly.**

A member of staff's gender history is clearly part of the individual's private medical and personal history over which the University must treat any records as sensitive information. Effectively this means that the same duty of care and confidentiality level must be maintained in respect of the gender history of students or staff irrespective of possession of a GRC, the sole difference being specific contravention of the Gender Recognition Act itself for those with recognition.

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Section 22 of the Gender Recognition Act 2004 created an offence where a person discloses “protected information”. This is information acquired in an official capacity (about a person’s application for a GRC, or the gender history of a GRC holder).

For example, should someone working at the University with access to the employee’s personal file, disclose the fact that the person was born a different gender, without the prior consent of the person concerned, **a criminal offence has been committed**, as well as a major breach of employer / employee confidentiality. This is a “strict liability” offence which means no room for pleading “reasonableness” - nor “only doing my job”.

Please note that “need to know” is not sufficient reason to disclose. A trans person (with or without a GRC) is not obliged to inform their employer of their gender change, although some may choose to ensure that their gender history is clearly established as “protected information”. Such information cannot be shared by the person with colleagues except within the specified exemptions to section 22, such as the individual’s explicit consent.

It is not possible to hold a GRC until two years “post-transition” and, even then, valid reasons may exist for some trans people not to apply for legal recognition in their acquired gender. It is however best practice and in keeping with the spirit of the law to regard all those who have changed gender as if a GRC were held from the date of transition onwards.

A person can be given a GRC if they are under gender identity clinic supervision and if they have been living in their preferred gender for at least two years – surgery does not have to have taken place.

Any information relating to an individual’s gender reassignment should be destroyed unless there is an essential reason for keeping it. If such reasons can be shown, the documents should be kept securely to restrict access to authorised staff and must not be passed to any third party without the specific consent of the transitioning member of staff.

If any member of staff, or a student or visitor asks whether an individual is trans or non binary it is important you do not give this information or speculate – the question is in itself an indication that the person is not in the ‘need to know’ group. If you are not sure if the enquiry is legitimate or not you should always suggest the enquirer contact their HR Manager or Head of School for advice. **Do not** be drawn into general discussion or gossip as this is both unsupportive of the individual and could be considered as misconduct and investigated as a potential disciplinary matter.

The Gender Recognition Act makes clear that information about an individual entered on to the Gender Recognition Register is confidential and disclosure of this information is prohibited.

The Data Protection Act sets out a number of criteria for individuals handling personal data. This includes ensuring that the data is kept securely and is

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processed only for the purposes for which they were collected; is not divulged to third parties without the subject's consent; is relevant and up to date; and, is disposed of as confidential material when no longer needed for the purposes for which they were collected.

What is the attitude at UEA in relation to gender transition?

The University aims to create a culture and environment in which it is safe to be oneself without fear of discrimination, harassment or bullying. The University works to improve understanding of a range of characteristics, both those protected under the law and also on a wider spectrum. Our ethos is that a safe and fair culture will support and enable all to flourish and achieve their full potential in both work and study. We have successfully supported a number of staff and students who have either undergone a full gender transition or who choose to live in their preferred gender. It is an entirely individual choice whether a person who either wishes to explore their gender identity or decides to fully transition seeks support – in producing this guidance the University aims to clarify what avenues of support are available on and off campus and in doing so make it clear that the University community welcomes and values transgender and non-binary students and staff.

Rights and responsibilities

All trans and non-binary staff and students have the following rights:

- To choose whether or not to disclose their gender identity, and to whom they disclose it, and the circumstances where this may be disclosed
- To request the University to update its documents, records and systems to reflect their new gender role, once they have decided to commence living full time in their new gender role
- To request support during their transition.

All University staff and students have these responsibilities:

- To respect the dignity of all staff and students
- To challenge and/or report incidents of discrimination, bullying and harassment, or victimisation relating to gender identity
- To withhold information about an individual's transgender and/or non-binary status from any other person unless given explicit permission by the transgender or non-binary individual
- To comply with the law in relation to the protected characteristics of gender reassignment that is in force in the UK (see Appendix 1).

What is the current legal framework covering gender identity/transition?

Please see the summary of current legislation on page 2 and at Appendix 1.

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If you're questioning your gender identity or if you're considering whether you want to transition:

What sources of support are available?

The support you're looking for will depend on what aspect of transition you're currently dealing with – if you are either initially exploring your gender identity or are more certain but need advice concerning a later stage - and would benefit from discussion in a safe supportive environment there are a number of routes you might find useful:

On Campus:

Human Resources Managers: the Human Resources Team has supported transitioning people whenever they have approached the team for support. The manager will be happy to sit down with you and consider the various aspects of life around campus so that you can agree a plan of action, with HR support, as you progress. They may also signpost you to other sources of support as and when required.

Support from the Staff Counselling Service:

- [The Counselling Service](#) is part of the Wellbeing Service, located in the Student Support Centre. Students are able to have up to six appointments with the service which provides a safe place to explore concerns or worries which may be connected with any stage of exploring gender identity, or to do with issues such as coming out to family and friends as well as to other students and staff on campus.

Appointments for the Counselling Service can be made by phone on 01603 592761 or by email to staff.counselling@uea.ac.uk

Counselling can help identify the right additional support services for you.

[University Medical Service](#) is based on campus and can provide advice and support to you if you are a registered patient and want to discuss medical aspects of gender reassignment. The service has successfully supported both students and staff previously seeking this kind of support.

To make an appointment phone: 01603 251601

Email enquiries can be sent to: umsuea@nhs.net

Off Campus:

There are several groups which may be of help in the area in giving support and putting you in contact with others who are experiencing/have experienced transition or have explored their personal gender identity in depth.

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The [Genderagenda](#) web pages have details of local support services in Norwich and Norfolk, as well as a range of useful background information.

Details of [support groups throughout the region](#) can be found online including at <http://www.genderagenda.net/norfolk-trans-intersex-non-binary-support-services.htm>

There is also group meeting at the [Catherine Wheel](#) pub in Norwich. See also: [http://tvchix.com/venues/19/Catherine Wheel](http://tvchix.com/venues/19/Catherine_Wheel) - for those who are at a confident stage of transitioning.

Other Online Sources of Information:

[Terence Higgins Trust](#)

[Sexual Health Information](#)

[How to find an NHS Gender Identity Clinic](#)

[GIRES](#)

[Press for Change](#)

[Stonewall](#)

Considering Disclosure:

Why might you decide to disclose?

The University hopes that anyone studying or working at the University who is considering transition, or who is already transitioning to affirm their gender, will choose to disclose so we can provide support. However, we do stress, it is an absolutely individual decision whether to disclose or not and there is no pressure to do so. We respect your right not to disclose this information but must also make you aware we cannot actively offer support or help you anticipate your needs if you decide against disclosure.

How to make a formal disclosure

You can notify the University of your intention to transition by letter, or by email, noted or sent as 'Strictly Confidential', to your Human Resources Manager in the first instance. The HR Manager will contact you to discuss whether it would be helpful to have an appointment to help determine what support is available and who can best support you, with your agreement.

Importantly, you should know that emails may be retained on UEA systems for auditing purposes. The risk of your gender status being revealed to others in the future as a result of retention of emails is considered to be low. However, if you are concerned about your gender status being revealed to others in the future, you can choose to avoid using email or limit any information you send by email or other electronic methods.

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When I join the University as a member of staff what are the gender options and personal titles I can choose?

When you are employed by the University questions/options you'll see are on your equality monitoring form are currently (October 2016) still binary. There are changes planned to broaden choice both here and in the personal title section of the form and on the system. This guide will be updated once this has taken place.

I will be changing my name – do I have to have a deed poll?

The Citizens Advice Bureau has [an excellent leaflet](#) explaining all general options around changing your name, in detail. To summarise – you don't legally have to have a deed poll to change your name, but practically you may run into problems, especially if you want to change your passport. The UEA has adopted the same stance as the UK Passport Office. We will accept an unenrolled Deed Poll as evidence of a change of name.

An un-enrolled deed poll is one that has not been endorsed by the Central Office of the Supreme Court of the United Kingdom.

Deed polls obtained from the Internet can be accepted and an un-enrolled deed poll is **acceptable providing the signature of the person changing their name has been witnessed and it has been signed in both your new and your old name**. If the deed poll is only showing the new signature it will be rejected and a new change of name deed with both signatures requested.

How can I be sure my data will be treated as strictly confidential?

The University takes its responsibilities around confidentiality very seriously. It would be a criminal offence (under Section 22 of the Gender Recognition Act (2004)) for a member of University staff to disclose to another person that the individual concerned in their discussion was born a different gender, if this happened without the consent of the person concerned.

All staff handling either student or staff details are trained on the requirements of the Data Protection Act 1998. Confidentiality is understood to be paramount among the HRD teams dealing with staff records, enquiries or data.

All staff are also required to complete the on line Equality and Diversity Module training 'Diversity in the Workplace' which covers the issue of confidentiality and sensitive data and also has a section covering trans peoples' rights. This is in addition to the training which goes on at a local level within Hubs and central/School/Faculty teams.

Should you ever have a concern about the way your personal information is being handled you should contact the University's Data Protection Team on extension 2431 (01603 592431) or by email: dataprotection@uea.ac.uk

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When UEA gathers data about me how will it be used?

The University monitors its overall staff profile by age, gender, ethnicity, disability, sexual orientation and religion and belief. The first four of those characteristics are typically shown at UEA level, Faculty level and/or by School, usually by headcount (i.e. numbers of students) and percentage. Sexual Orientation and Religion and Belief are shown at UEA level only, and not taken to lower levels (Faculty or School) due to the sensitive nature of the data. Transgender and non-binary staff are not included in formal monitoring, although through support work with individuals we are aware that staff who have transitioned, work here. Individual's details are not passed on internally without the explicit consent of the person concerned and certainly not with a view to compiling statistics.

It is possible we would introduce formal monitoring in the future. At the same time, in every category of question we always give the option 'prefer not to say'.

The reason for monitoring is to allow us to analyse how fair an employer the University is – for example, in its recruitment or promotion practices. We look at how we can improve our work where data and qualitative feedback tell us we could do better for certain groups, for example, by improving the physical campus so that disabled staff and students have the best possible access. When analysing data we look at numbers and the patterns that emerge – we don't include personal details and although the data is based on SITS it is extracted separately and away from individual records.

Can I change my records during the time I work at UEA?

Yes. In the first instance either email or write to your [Human Resources Manager](#).

Let them know that you have decided to live in your preferred gender and what changes you require to your record.

The Human Resources Team have clear processes to take care of record changes and once the record is changed from one gender to another the history of records under your previous identity are automatically removed from the HR system.

It is understood by staff handling staff records that a Gender Recognition Certificate is not required and should not be requested when making such a record change. However, we initially ask for a written request to allow us to make the required alterations and evidence of a change of name.

Evidence can be in the form of either enrolled or unenrolled deed poll. An un-enrolled deed poll is one that has not been endorsed by the Central Office of the Supreme Court.

Deed polls, either enrolled or unenrolled, obtained from the Internet can be accepted. Please note: **an un-enrolled deed poll can only be accepted if it has been signed and witnessed in both the new and the old name.** If the deed poll is only showing the new signature it will be rejected and a new change of name deed with both signatures requested.

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If liaison is needed with other departments the Human Resources Team will discuss this with you first and either get your permission or ensure you are aware of any limitations non-permission may place on the support you receive. At all times you will decide the extent of disclosure.

How do I get a new campus card once I'm living in my affirmed gender?

Campus cards are issued via the IT Service Desk in the Library. However, sensitive requests for a new campus card can be requested by email from the IT Service Desk Manager.

If I encounter bullying behaviour from others what can I do about it on campus/off campus?

On campus:

Your Human Resources Manager has been trained in issues of bullying, harassment and dignity and respect and will be able to advise and support you. Alternatively, you can talk to your Line Manager. If you want to talk to someone more informally, outside the management structure, the Staff Pride Dignity and Respect Champions have been trained as informal advisers. They can listen and offer signposting to more formal support if needed.

Off campus:

For support off campus:

Norfolk Trans Forum | Norfolk LGBT Project

www.norfolk-lgbtproject.co.uk/support/groups/trans-forum/

Norfolk Trans-Forum is a self-help support group for male to female transsexuals. Norfolk Trans-Forum is part of Norfolk LGBT Project **support** groups.

[Genderagenda](#) provides a list of services within Norfolk for transgender people and their families.

However, if the behaviour experienced needs firm action to be taken please contact the police who have dedicated Hate Crime Officers with in-depth training on handling such issues:

<https://www.norfolk.police.uk/about-us/our-policies/equality-and-diversity>

<http://www.norfolk-lgbtproject.co.uk/hatecrime/>

I am transitioning and will continue to use Sportspark facilities – is there someone I can talk to about changing facilities or any other questions I might have?

You are entitled to use the changing room of your preferred gender, however, if you have concerns please liaise with either the Sportspark Director or the Sportspark Quality/Health and Safety Manager.

Where are the gender neutral facilities on campus, such as toilets?

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The University has a number of gender neutral toilets available across the campus.

The [campus map](#) highlights them with this symbol  (from the menu below the map choose 'Campus Facilities' and the gender neutral toilets are marked with the symbol above).

University policy, as part of the Estates Design Guide, is that where major refurbishment takes place or where a new building is designed, gender neutral toilets will be included where possible.

What is the current legal framework covering gender identity/transition?

Key current legislation is:

- Data Protection Act (1998)
- Human Rights Act (1998)
- Gender Recognition Act (2004)
- Equality Act (2010)
- The Marriage (Same Sex Couples) Bill (2013)

Gender reassignment is recognised as a protected characteristic under the Equality Act (2010) and Section 7 states a person has this protected characteristic if they are 'proposing to undergo, is undergoing or has undergone a process or part of a process for the purpose of reassigning the person's sex by changing the physiological or other attributes of sex'.

The Act makes it unlawful to discriminate against a transsexual person in work and in the provision of goods, facilities, services and public functions. **It is not necessary to be under medical supervision and those perceived as transsexual people along with those associated with transsexual people such as family, friends and colleagues are also protected from unlawful treatment.**

Unlawful treatment may take the form of

- direct or
- indirect discrimination,
- harassment or
- victimisation.

Employment

Section 16 of the Act states that absence from work due to gender reassignment cannot be treated less favourably than absence because of sickness or injury and absence for any other reason if it is not unreasonable to do so. This allows absence for gender reassignment to be treated differently but not less favourably than other forms of absence and can remove substantial disadvantage than would otherwise arise.

The Public Sector Equality Duty

Section 146 of the Equality Act outlines the Public Sector Equality Duty. This requires the University (along with other public sector bodies) to have 'due regard' to the need to eliminate discrimination, harassment and victimisation against transsexual people (along with people with the other protected characteristics), to advance equality of opportunity and foster good relations between transsexual people and others. The University also has a duty to publish information annually covering the full range of protected characteristics among students and staff. This

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information is published on the University's equality web pages:
<https://portal.uea.ac.uk/equality/equality-information-and-ref2014>

The Gender Recognition Act (2004)

The GRA provides legal recognition for transsexual people in their 'acquired' gender. Legal recognition is established by gaining a full Gender Recognition Certificate (GRC). This is issued by a Gender Recognition Panel (composed of lawyers and doctors) who must be satisfied that the applicant:

1. Has or has had gender dysphoria
2. Has lived in the acquired gender throughout the preceding two years
3. Intends to continue to live in the acquired gender until death.

The applicant needs to be single for a 'full' rather than interim certificate to be issued. Surgical intervention/gender reassignment surgery is not a requirement for the issue of a GRC.

Legal recognition is still an important issue as this means that, for example, a trans woman is recognised as a woman in law.

A person with a GRC receives all the legal rights of their recognised gender including the right to marry someone of the opposite gender to their acquired gender, and to retire and receive state pension at the age appropriate to their acquired gender. Someone with a UK birth certificate is entitled to a new birth certificate reflecting their acquired gender.

Since the introduction of the Marriage (Same Sex Couples) Act in 2014, there are changes to the way GRCs are awarded. If you are married, you no longer need an annulment in order to get a GRC. As long as your partner agrees to your application a married trans person can now remain in their marriage and be awarded a GRC. If your spouse does not consent to the marriage continuing after a GRC has been awarded this known as spousal veto. In this situation, you can get an interim GRC but not a full one unless the marriage is annulled.

If you are in a civil partnership, both parties would have to be transitioning before either of them could get a GRC. This is because civil partnerships are only for same-sex couples. If only one of you is transitioning you would need to convert your civil partnership to marriage and then apply for a GRC.

Since this area of the law is complex, please visit [GIRES](#) to read more.

People without a GRC cannot obtain a new birth certificate and are without full legal recognition. Legal recognition also does not apply during the two year qualifying period. Non-binary people cannot obtain a GRC.

The fact of having or not having a GRC should never be used to determine how a transgender and/or non-binary person is treated with the exception of specific instances where the legal sex of a person is paramount.

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Data Protection Act (1998) and Human Rights Act (1998)

Article 8 of the Human Rights Act gives everyone, including transgender and non-binary people, the right to privacy and family life.

For the purposes of the Data Protection Act gender reassignment and any information appertaining to an individuals' gender history would constitute 'sensitive data' which can only be processed for certain specified reasons as set out in the Act. Given the privacy provision included at Section 22 of the Gender Recognition Act and the broader privacy protection for all people, best practice is to assume any transgender person has gender recognition and treat them accordingly. This also prevents gender recognition becoming an inappropriate demarcation when the provisions of the Equality Act apply to all transgender people regardless of whether they have gender recognition.

Terminology* and Definitions – words commonly used around Trans and Equality

**This appendix is adapted from terminology provided by GIRES, the Chair of the UEA SU LGBT+ Caucus and attendees at the LGBT+ Caucus.*

Terminology on transgender and non-binary issues has somewhat changed in the past few decades, and while these definitions are helpful, it is important to listen respectfully to trans and non-binary people.

Affirmed Gender

The term 'affirmed' gender, is now becoming more common in describing the post-transition gender role which, at that stage, accords with the gender identity. The gender identity does not change when a person transitions; the gender role and appearance come into alignment with it. This would usually include dress and presentation and will often have been assisted by medical intervention. 'Affirmed' should be used in preference to 'acquired'; the latter is the language of the Gender Recognition Act, and is more appropriately used to describe the new legal gender status of the individual.

Cisgender

Cisgender people are those who identify fully with the gender they were assigned at birth. So if someone is assigned male at birth, and identifies as a man, they are cisgender.

Discrimination by Association

If A treats B less favourably than others because B, for example:

- Cares for an elderly relative
- Has a son who is known to be gay
- Has a spouse who is of minority ethnic background
- Cares for a disabled child
- Has a surviving relationship with someone who has transitioned

and so on.....

This would be 'associative discrimination'

Direct Discrimination

A person (A) discriminates against another (B) if, because of a protected characteristic, A treats B less favourably than A treats, or would treat, others.

E.g. Person A is recruiting for a job and although Person B is the best person for the job in terms of qualifications, experience, meeting specified criteria, performance at interview Person A doesn't give them the job because they're:

- Too young/old
- A woman/a man/ transitioning/has transitioned sex
- Black, Asian, White
- Christian, have no belief, a Catholic, Jewish, Sikh
- Perceive they may be gay or lesbian
- Because they are pregnant

And so on.....

Discrimination by Perception

If A treats B less favourably than others because A perceives B to be:

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Disabled, gay, lesbian, straight, transgender, of a particular age range (as a range of examples), then this would be 'perceived discrimination' even if B is wrong in his or her perception.

Gender confirmation treatment

Those transitioning permanently sometimes have gender confirmation treatment that includes hormone therapy and sometimes surgery to bring the sex characteristics of the body more in line with the gender identity. Such surgery is sometimes referred to as gender confirmation surgery. The term 'sex change' is not considered appropriate or polite.

Gender Identity

Gender Identity describes the gender with which one psychologically identifies oneself. Gender identities include man, woman, non-binary, genderqueer, demiboy, demigirl, genderfluid, bigender or another more personal identity.

Gender role

"Gender roles" are society-fashioned stereotypes, usually dating back decades, about how men and women should behave. Many stereotypes about gender roles have come under criticism from feminists and other thinkers, and no trans and/or non-binary person should be pressured to conform to a gender role.

It should be emphasised that no-one needs to conform to "gender roles" in order to be a valid man, woman or non-binary person.

Gender dysphoria

Occasionally an individual may feel that their physical appearance does not coincide with their own psychological sense of their gender identity. Where conforming with society's cultural expectations causes a persistent personal discomfort, this may be described as gender dysphoria (dysphoria means unhappiness). Gender dysphoria is a recognised condition for which medical treatment may be appropriate in some cases. However, each individual is unique and will experience gender variance to a different degree, responding to social circumstances differently. Gender variant expressions should not be regarded as psychopathological, but as a natural part of human experience.

Gender Recognition Certificate

In 2004 the Gender Recognition Act was passed, and it became effective in 2005. Those trans people who have undergone a permanent change of gender status may endorse their new gender status by obtaining legal recognition in the form of a Gender Recognition Certificate (GRC). Applicants must provide paper evidence to the Gender Recognition Panel indicating that they have already changed their name, title and gender role, on a continuous basis, for at least two years, and that they have the intention to live in the altered gender role for the rest of their lives. A medical opinion indicating that the applicant has experienced gender dysphoria is necessary, and some details regarding treatment. However, no surgery is required. Successful applicants acquire the new gender status 'for all purposes', entitling them to a new birth certificate registered under the changed name and title, provided that the birth was registered in the UK.

The GRC has strict privacy provisions which must not be breached by any person acquiring such information in an 'official capacity'. Disclosure to a third party would be a criminal offence (GRA s22).

The Marriage (Same-Sex Couples) Act, 2013, will allow trans people to obtain a GRC within a pre-existing marriage, which will then become a 'same-sex' marriage. When a trans person obtains a GRC within a pre-existing Civil Partnership, that partnership must be changed into a marriage.

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Harassment

Legally: unwanted conduct ‘ related to a relevant protected characteristic’ that has the purpose or effect of violating a person’s dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment which interferes with an individual’s learning, working or social environment or induces stress, anxiety, fear or sickness on the part of the harassed person.

The Act recognises harassment by association or perception. Differences of attitude, background or culture and the misinterpretation of social signals can mean that what is perceived as harassment by one person may not seem so to another; nevertheless this does not make it acceptable. The defining features are that the behaviour appears or feels offensive, humiliating, hostile or intimidating to the recipient or would be so regarded by a reasonable person.

Intersex people

Intersex people are people whose anatomy does not fit into easily definable sex categories of “male” or “female”. Often intersex children are given invasive surgery without their consent to bring their anatomy in line with perceived perceptions of sex. Intersex people may not necessarily identify as transgender or non-binary, and are a fully distinct category in terms of sex and gender.

Positive Action

It is lawful to use positive action as a means to address identified inequalities. It allows organisations to encourage people from under-represented groups to apply for jobs (although selection for posts will always remain strictly on merit and against pre-determined criteria), and to provide facilities or services in regards to training and career development opportunities in order to meet the particular needs of people from different under-represented groups. **Positive action is not the same as positive discrimination, which is unlawful.**

Prejudice

An opinion about someone or something that is not based on reason or experience. NB. Prejudice is thought not action.

Protected Characteristics

Age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex, and sexual orientation.

Sex

“Sex” refers to differences in physical appearance (e.g. reproductive organs) and brain characteristics that lead to a person being assigned male or female at birth. This is considered different to a person’s gender identity, which is the inner sense of gender, and “gender roles” which are society-fashioned stereotypes about how men and women should behave. It should be emphasised that no-one needs to conform to “gender roles” in order to be a valid man, woman or non-binary person.

It is often assumed that our assigned “sex” will be consistent with our genders – so, for example, it is often assumed that everyone assigned male at birth will grow up to identify as a man. This is not true, and it is known as “cisnormativity”. It is important to avoid engaging in cisnormativity.

Sexual orientation

Sexual orientation is a separate issue from gender identity. Sexual orientation is associated with the sexual attraction between one person and another. This is quite

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different from the internal knowledge of one's own identity. Trans people may be gay, straight, bisexual, pansexual or asexual. Their sexual relationships may remain the same through the transition process, or they may change. So a person who is living as a man, and is in a heterosexual relationship with a woman may, having transitioned to live as a woman, continue to be attracted to women and seek a lesbian relationship – or – may be attracted to men, and therefore seek a heterosexual relationship with a man. Sometimes trans people make lasting relationships with other trans people, so the possibilities are many and varied, and do not necessarily fit comfortably into typical categorisations of sexual behaviours. Those who remain in a long-term relationship, despite one partner having transitioned cannot be categorised by any existing terminology, since the sexual orientation of the non-trans partner does not change; the orientation of the trans partner may or may not shift, as described above.

Stereotyping

When characteristics conventionally associated with a particular group are applied to the individuals perceived to be of that group. Stereo-typing can be both positive and negative and either can be equally ill-informed. When stereotypical views of individuals based on their group identity lead to pre-judgement or assumptions this may lead to discriminatory behaviour

Transgender

“Transgender” has been defined by the UEA trans community as meaning any person who identifies, fully or partially, as not being the gender they were assigned at birth. This includes, but is not limited to, people who identify wholly with another gender, are genderfluid, are bigender, have no gender or fall under the non-binary umbrella, as well as trans women and trans men.

The phrase “transgender” categorically does not apply to those who cross-dress for performative or erotic reasons, although some may use those instances as ways of exploring their gender identity. Transgender refers to those who identify as a different or partially different gender, and does not describe people who present differently while still identifying with their assigned gender.

Transsexualism

The terms ‘transsexualism’ and ‘transsexual’ are gradually being replaced with more acceptable terminology. Do not use the phrase “transsexual” to describe a trans or non-binary person without their consent, as many find it offensive, outdated and cold (much as calling a gay person “a homosexual” would be).

However, the Gender Recognition Act and Equality Act use the phrase “transsexual”, often when the phrase transgender would seem more appropriate. The Equality Act defines a transsexual person as someone who ‘proposes to undergo, is undergoing or has undergone gender reassignment’ (Equality Act 2010). These terms apply only to those whose gender dysphoria may require medical intervention, possibly including hormone therapy and surgical procedures to change the appearance.

Often these treatments are associated with a permanent transition to a gender role that accords with the gender identity. The word ‘transsexual’ should be used as an adjective, not a noun. It is, therefore, never appropriate to refer to an individual as ‘a transsexual’, or to transsexual people, as ‘transsexuals’.

Most people experiencing gender dysphoria prefer the general terms, ‘trans’ and

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'transgender'; the abbreviation 'tranny' is also thoroughly unacceptable and profoundly offensive.

Transition

Transition is the term used to describe when someone undertakes a series of actions to affirm themselves as a certain gender. Transition may include changing your name, prefix and/or pronouns, getting medical assistance for physical changes and/or making changes to your gender presentation. However, it can come in various other forms too and can describe many diverse experiences. Binary and non-binary trans people can transition.

Victimisation

A person is victimised if they are punished or treated unfairly because they have made a complaint, or are believed to have made a complaint, or have supported someone who has made a complaint of discrimination against their employer or part of their employing organisation, or an individual in it. It is unlawful to treat someone unfairly or to punish them under these circumstances as is post-employment victimisation.

E.g. where references are concerned. Students could be similarly victimised e.g. Refusal of application or unfair marking or refusal to provide information or services.

Dignity and Respect – Update on Policy Review

Since July 2016 a small working group comprising Helen Murdoch (Head of E&D), Santha Forder (HR Manager), Natasha Gales (UNISON), Susan Sayce (UCU) and Trevor Bellward (UNITE) have been working in partnership to review the University's equality and diversity employment codes of practices/guidance documents pertaining to staff. The first set of documents have been submitted to the 31 October 2016 Equality & Diversity Committee.

The working group are continuing with the review process and between October 2016 and February 2017 will be finalising the next set of documents for submission to the 28 February 2017 Equality & Diversity Committee. This will include the review of the current Harassment and Bullying Guidelines and re-branding these as Dignity & Respect in the Workplace.

The intention is to produce a range of documents and other information, including, but not limited to:

- Dignity & Respect in the Workplace Guidelines (overarching document) + flowchart
- Guidance (including flowchart) for individuals who believe they are not being treated with dignity & respect
- Guidance (including flowchart) for individuals who have has allegations made against them
- Guidance (including flowchart) for individuals who believe they have witnesses others not being treated with dignity & respect

Guidance will contain information on harassment, bullying, sexual assault, hate crime and domestic abuse.

In producing these documents the working group will be taking on board current legislation, guidance from the Equality Challenge Unit and good practice being undertaken by other UK Universities and organisations. In addition, the working group will be looking at the recommendations of the recently published UUK harassment taskforce report and guidance

<http://www.universitiesuk.ac.uk/news/Pages/Taskforce-publishes-recommendations-to-universities-on-dealing-with-violence-against-women-and-hara.aspx>; and, the

Government response to the Women and Equalities Select Committee report on Transgender Equality

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/535764/Government_Response_to_the_Women_and_Equalities_Committee_Report_on_Transgender_Equality.pdf

which has specifically identified the need to tackle harassment and bullying in higher education in respect of transgender equality.

As part of the review, a communications plan (with the input of Andrew Stronach's team) will be produced for the re-launch of Dignity & Respect in the Workplace. A brief discussion has taken place with the Vice-Chancellor and the intention is to include a statement from him in the overarching document and for him to be involved in the re-launch to demonstrate the level of commitment at the University.