

Transitioning at Work Policy

Policy Number 132

VERSION	001
INITIAL DATE	November 2020
LAST REVIEW DATE	
DATE ISSUED	November 2020
AUTHORS	Human Resources
RESPONSIBILITY FOR UPDATES	Human Resources
LINKED POLICIES	Bullying & Harassment; Equality, Diversity & Inclusion
NEXT REVIEW DATE	November 2022

Contents	Page No
Introduction	3
Scope	3
Legislation	3
Transitioning at work – first steps	4
Supporting trans employees	4 – 7
Time off for medical appointments	7
Use of facilities	8
Appendices	9 – 16

Introduction

EIS is committed to the inclusion of trans employees in the workplace by creating a safe and welcoming environment where trans employees feel valued, treated with dignity and respect and can express their gender identity freely. EIS recognises the variety of experiences and perspectives that trans employees can contribute to the workplace in support of our Mission and Values.

Transitioning refers to 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 involves medical intervention, such as hormone therapy and surgeries, but not all trans people want or are able to have this. Transitioning might also involve things such as telling friends and family, dressing differently and changing official documents. So, whilst some trans people may not go through medical transition, virtually all will go through a form of social transitioning.

The EIS will provide support and understanding to those individuals who wish to take or have taken steps to transition and affirm a gender identity different from the gender assigned to them at birth. The EIS recognises that each person's transition is unique and can be complex and difficult.

This policy outlines the support available to employees and sets out how the EIS will manage any transition at work in the most sensitive way possible. When using this policy, you should also refer to the supporting Appendices.

Scope

This policy covers all employees, contractors, volunteers, students, temporary workers and job applicants and applies to all stages of the employment relationship, with particular guidance for those intending to transition.

Legislation

Trans employees are protected by two key pieces of legislation:

- The Gender Recognition Act 2004: Allows trans people to obtain a Gender Recognition Certificate and have the correct gender marker on their birth certificate
- The Equality Act 2010: Gives protection from discrimination related to the protected characteristic of Gender Reassignment.

The Equality Act's definition of gender reassignment gives protection from discrimination to a person who has proposed, started or completed a process to change their sex. EIS recognises that this narrow definition of "gender reassignment" does not adequately reflect the varied experiences of trans and non-binary people. This policy therefore protects all those who are trans or non-binary and those who have a trans history.

See Appendix A: Definitions and terminology

Transitioning at work – First steps

The EIS acknowledges that transitioning is a major decision and the individual may have taken years to reach that point. The transition process and the time it takes will be unique to each individual.

An employee considering transitioning at work should inform their line manager or a member of the HR team to discuss how they can be supported during the process and agree a main point of contact who will help manage the transition from EIS' perspective.

Part of this support may include devising a bespoke, confidential Workplace Transition Plan (WTP) which considers the steps to take before, during and after transition. This process will be led by the employee and no action will be taken without their prior explicit consent.

The WTP might include:

- when and how an individual will present at work in their affirmed gender identity;
- handling a request by the employee to change their job temporarily during the transition process or to move to a new role permanently;
- the point at which colleagues, especially any direct reports, will be informed and how this will be done;
- if and how third parties, such as clients, should be informed;
- how absence from work for reasons associated with medical transitioning will be handled;
- arrangements for changing the individual's name on their personnel records, email, security passes etc;
- confidentiality; and
- dress codes (EIS kit).

It is suggested that regular review meetings are held to help the individual work through the transition period.

See Appendix B: Guidance for Line Managers

Supporting trans employees

Confidentiality

The EIS will respect trans job applicants' and employees' right to privacy in deciding whether and how they share information about their trans status or history. An individual's gender identity will always be acknowledged and respected.

It is unlawful to disclose an employee's trans history or status without their explicit consent.

Where there is a need to retain documentation that shows someone's trans history, this information will be stored confidentially in line with the requirements of Data Protection legislation. Any breaches of confidentiality and/or data privacy will be treated seriously and dealt with under the [Bullying and harassment Policy](#) and may result in disciplinary action.

Bullying and harassment

The EIS adopts a zero-tolerance approach to harassment, bullying or victimisation and is committed to creating a safe work environment for trans and non-binary employees.

Examples of harassment against trans or non-binary people include, but are not limited to:

- verbal abuse such as name-calling, threats, derogatory remarks or belittling comments about trans or non-binary people;
- asking an individual if they have a Gender Recognition Certificate (GRC);
- jokes and/or banter about someone's gender identity, gender expression, trans history, trans status or trans people generally;
- refusing to use the pronoun appropriate to someone's affirmed gender (for example, calling a trans woman "he"), calling the person by the name they had before they transitioned ("deadnaming") or refusing to use a person's preferred non-binary pronouns such as they/them or ze/zir;
- threatening behaviour or physical abuse;
- intrusive questioning about someone's gender identity, gender expression, trans history, trans status or their transition process;
- excluding a trans colleague from conversations or from social events;
- refusing to work with someone because they are trans or non-binary;
- and displaying or circulating transphobic images and literature.

The EIS have the following policies and procedures in place to be invoked where harassment and bullying have taken place or where allegations are made.

- [Grievance policy](#)
- [Bullying and harassment Policy](#)

Confidential support is available to employees affected by bullying and harassment in the workplace through the EIS' Employee Assistance Programme run by [Simply Health](#).

Inclusive practices

The EIS has adopted the following inclusive practices:

- Ensuring that trans people have their right to privacy respected.
- Not making assumptions about anyone's gender identity just by looking at them. Being trans, non-binary or intersex is not a visible characteristic and we do not presume that it is.
- Using gender-neutral language with / about people and avoiding terms like 'Sir' or 'Madam', 'young lady' or 'mate', or addressing groups of people as 'guys' or 'women' simply based on how you read their gender expression. Gender neutral terms to address groups might include 'everyone', 'folks', 'staff' or 'colleagues'. Gender neutral pronouns include 'they'.
- As and when a person makes it clear how they identify their gender, respect their preferences, whether you are talking to them or about them. If you are not sure how someone would like to be addressed or described, it is okay to ask.

Names and pronouns

The EIS will take all necessary steps to ensure that an individual's change of name and their preferred pronoun is respected.

Consistently addressing a trans or non-binary employee by their previous name and/or an inappropriate pronoun may be regarded as harassment and may result in disciplinary action.

If you are unsure what pronoun a transitioning colleague might prefer, ask them politely how they would like to be addressed.

Changing employee records including workplace systems

A trans employee does not need a GRC or updated birth certificate to formally change their name or gender, but can do so, simply by emailing their line manager and HR following their discussion.

Any records and workplace systems that include personal identifiers will be changed by the time the individual returns to work after beginning the process of transitioning or at an agreed upon date.

In a small number of cases, it may be necessary for some records (e.g. with regard to pensions, insurance and asylum and immigration documentation) to retain a reference to the sex of the employee at birth. Access to such records, will only be made by named persons approved by the trans employee, unless emergency circumstances occur.

Communication

The line manager will work with the employee to agree what information needs to be conveyed to work colleagues and when. While the whole workforce may not need to know about the employee's transition, people who work closely with the individual will normally need to know to ensure that a good working relationship is maintained.

The employee may wish to tell colleagues themselves about their transition or elect someone else to do so on their behalf. The EIS will encourage the

individual to do what is best for them and will seek to protect them from intrusive enquiries.

Where an employee has a client-facing role, the EIS will discuss with the individual what, if anything, third parties need to know and how this should be handled.

Dress code

The dress code for the EIS is gender neutral. On occasions when kit is provided, employees are encouraged to select whatever kit they feel comfortable wearing, regardless of gender marker. The only requirement is that it is suitable for their role.

This support is inclusive of all trans employees, including those with non-binary or gender-diverse identities.

Time off for medical appointments

The EIS understand that every person's transition is unique and that time off work will vary according to the needs of the individual. The Equality Act 2010 provides specific protection for paid time off for medical interventions related to transitioning.

Time off to attend a hospital or doctor's appointment which lasts for less than half a working day will not be counted as sick absence. If an appointment means an absence of half-day or more, it should be recorded as sickness absence in the normal way (see Sickness Absence Policy). Managers will be flexible when an employee requires time off, recognising that appointments sometimes become available at short notice.

Time away from work for surgery and recovery will be recorded as sickness absence in the normal way but will not be counted in relation to absence monitoring and will not impact upon any employment decisions, such as promotion opportunities, performance management or redundancy processes.

Employees may be asked for permission to obtain a GP report or to attend an Occupational Health Assessment before they return to work, to ensure that they have made a full recovery following a long-term absence. The EIS recognises that an individual undergoing medical and/or surgical procedures may require temporary changes to working hours or duties, for example in periods of recovery. Positive support will be provided to ensure any particular needs are met and managers will discuss any adjustments that might need to be made to facilitate the return to work.

Use of Facilities

Trans employees should choose whichever facilities they feel comfortable using without fear of bullying or harassment. They shall not be expected or required to use accessible or unisex facilities exclusively unless the individual prefers to do so.

This support is inclusive of all trans employees, including those with non-binary or gender-diverse identities.

Specific Policies

Detailed policies relating to recruitment, monitoring and employment are available at Appendix C

Appendix A: Definitions and Terminology

Using inappropriate language and terminology can cause offence and distress and undermines the EIS' efforts to create an inclusive workplace for trans or non-binary people. The following is a list of key words or terms that are often used when discussing trans or gender identity issues. Please note that the language is constantly evolving and can change quickly. For the most comprehensive and up to date list of terms, please see Stonewall's glossary of terms [glossary of terms](#).

Individuals will self-affirm, and how they choose to describe themselves should be respected by everyone. Rather than assume, it is best to ask someone how they wish to be addressed. If you make a mistake, quickly and simply apologise and adopt the preferred language going forward.

Cisgender or Cis: Someone whose gender identity is the same as the sex they were assigned at birth.

Gender identity: Everyone has a gender identity – an innate sense of ourselves as being male or female or somewhere on the spectrum in between. For most people, their gender identity matches their birth sex, but those who are trans or non-binary can feel different to their physical appearance.

Gender reassignment: Gender reassignment is another way of describing a person's transition to live their life in the opposite gender to the one assigned at birth. For some, but not all, this may involve undergoing surgery or medical interventions, but it can also mean changing names, pronouns, dressing differently and living in their self-identified gender.

Intersex: *A term used to describe a person who may have the physical/biological attributes of both sexes or whose physical/biological attributes do not fit with societal assumptions about what constitutes male or female. Intersex people may identify as male, female or non-binary.*

Non-binary: An umbrella term for individuals whose gender identity doesn't sit comfortably with 'man' or 'woman'. Non-binary identities and/or expressions are varied and can include people who identify with some aspects of binary identities, while others reject them entirely. Non-binary can include terms like 'agender' (without gender) to describe gender identity and in some cases agender is used as a political rejection of society's gendering practices. Some non-binary people consider themselves to be trans, and some do not. In addition, individuals may feel that they express non-binary behaviour rather than identify as gender non-binary per se. This might include appearances, behaviours and social roles that do not adhere to social expectations.

Sexual orientation: A person's physical or emotional attraction to people of the same and/or other gender. Straight, gay and bisexual are some ways to describe sexual orientation. Gender identity is distinct from sexual orientation and the two terms are not interchangeable. Trans people can be straight, gay, lesbian or bisexual, just like non trans people.

Trans: An umbrella term used to describe people whose self-determined gender does not match the sex they were assigned at birth. Trans people include those who were assigned male at birth whose gender is female (trans women), those who were assigned female at birth whose gender is male (trans men) and those who do not identify as male or female who may describe themselves using one or more of a variety of terms including (but not limited to) Transgender, Gender-

queer, Gender-fluid, Non-binary, Gender-variant, Third gender, Two-spirit, Bi-gender, Hijra.

Transgender: The word "transgender" is an adjective which is usually shortened to "trans". An individual should never be referred to as "a transgender". The correct usage of the term is "transgender person", "transgender community" "transgender equality" etc.

Transgender man: Someone who is assigned female at birth but identifies and lives as a man. This may be shortened to a Trans man, or FTM, an abbreviation for female-to-male.

Transgender woman: Someone who is assigned male at birth but identifies and lives as a woman. This may be shorted to a Trans woman, or MTF, an abbreviation of male-to-female.

Transition: The process of changing from one gender to another. This can be a daunting process and involves social, psychological, emotional and sometimes physical changes.

Transsexual: This was used in the past as a more medical term to refer to a person who transitioned to live in the "opposite" gender to the one assigned at birth. It is generally considered to be a dated term.

Appendix B: Guidance for Line Managers

Line managers have an important role to play in highlighting the help they are able to provide an employee throughout transition and the policies in place to support them, such as the Transitioning at work policy and [Bullying and harassment policy](#). Line managers should remember that it's Ok for them not to have all the answers – be ready to ask questions, listen and seek further advice to ensure the employee is effectively supported throughout.

The following checklist can help guide initial discussions with the employee wishing to transition:

- Be positive and encouraging in initial conversations – these will set the tone for the rest of the transitioning process at work.
- Ask how they would like to be referred to at each stage of the transition process.
- Agree a single point of contact (usually the line manager) and discuss which other individuals may need to be included in the WTP.
- Consider the expected timing when the transition will officially and formally occur (the date that the transitioning employee will change their gender expression, name and pronouns). For someone early in their transition, this may be approximate or unknown.
- What time off may be required for medical appointments and any medical procedures.
- Any new name and what pronouns the individual will be using.
- Decide how, when and in what format the employee's colleagues should be made aware of the employee's transition. It is up to the employee to decide whether they wish to inform colleagues themselves or would prefer this to be done for them.
- What updates will be required to identity cards, records and systems. Ensure all name changes and photographs are updated in advance so they can go live on the transition day.
- Decide whether any trans awareness training may be helpful for colleagues.
- Treat their disclosure to you with the strictest confidence and decide how confidentiality will be maintained in line with the employee's wishes. This should include how information regarding their transition will be managed and who will have access to it. Information should only be disclosed to those who need to know, are involved in the process or have the consent of the transitioning employee.
- Use of facilities. Once a transitioning employee presents in their affirmed gender, they would normally be expected to use the facilities of that gender, but may opt to use other gender neutral facilities if available. Let this be driven by the employee as there can be some time during transition where the individual's gender expression may have changed, but they don't yet feel comfortable using the single gender facilities.

Appendix C: Specific policies relating to Recruitment, Monitoring and Employment

Recruitment

The EIS wishes to attract applicants from as wide a talent pool as possible and the recruitment process is designed to be inclusive of trans and non-binary applicants. A job applicant's gender identity status has no impact on the recruitment process. A job applicant with a GRC is never required to disclose their trans history.

If an individual discloses that they consider themselves to be trans or non-binary during the recruitment process, the applicant's trans history will be kept confidential and will not be taken into account in the selection process. The EIS will assess candidates for employment objectively against the requirements that are necessary for the effective performance of the job, as detailed in the Person Specification of the job description.

Whilst an applicant does not have to disclose their trans history to the EIS at any stage, if a criminal records check is required as part of the recruitment process, applicants must disclose any previous names and/or gender when applying for their DBS. Trans applicants may make use of the sensitive application process established by the criminal records procedure, so their previous name is not disclosed to the organisation. Please click on the link for more information about the sensitive application process: www.ddc.uk.net/help-advice/dbs-checkfaqs

The requirement to provide proof of identity to confirm the right to work in the UK can be particularly sensitive for a trans or non-binary applicant whose identification documentation may be in their previous names. The EIS will always ensure that an applicant is made aware of the full range of permissible identification documents and that the process of checking is handled sensitively and with respect for privacy of the individual.

Where an individual's documentation reveals their previous name and thereby their trans history, this information will be kept confidential and stored securely with the permission of the individual and in accordance with the requirements of Data Protection legislation. The same approach will apply where an applicant is required to present qualification certificates before a job offer is confirmed and the certificates are in the applicant's previous name.

Monitoring

In line with its [Equality Diversity Inclusion policy](#), the EIS will monitor the gender identity and trans status of the existing workforce and of job applicants (including promotion) and will review its Equality Diversity Inclusion policy in accordance with the results shown by the monitoring.

The disclosure of information by employees/job applicants is voluntary and any information disclosed will be treated in confidence, stored securely and used only to provide statistics for monitoring purposes.

Employment

An employee who is socially or medically transitioning may wish to be redeployed on a temporary or permanent basis. Wherever possible, an employee's request to be redeployed, will be accommodated.

An employee's gender identity, trans history or trans status will not have a bearing on any employment decisions or access to benefits, except where necessitated by law. For example, an individual who has transitioned but does not have a GRC may be required to disclose their trans history for insurance or pension purposes. In such circumstances the EIS will treat such information as sensitive data and it will be handled in line with the requirements of Data Protection legislation.

Where the pension provider request disclosure of an individual's gender, the EIS will ensure that this requirement has been checked with the underwriter and the requirement is made clear in any scheme information provided to employees. In such circumstances, the employee's written consent will be obtained before disclosing their trans history and trans status to a third party.

Appendix D: FAQs

I identify as trans and wish to transition. Who do I need to contact for advice and support?

Speak to your line manager in the first instance, or if you prefer, a member of the HR team or any other senior colleague.

What support will EIS provide if I'm transitioning?

The EIS will be guided by you about the support you require and will work with you to help meet your specific needs at every stage of the process.

Where can I go to for confidential advice about transitioning?

Within the EIS you can speak to your line manager or a member of the HR team. Externally, [Stonewall](#) have a number of useful resources and a Freephone Information Service on 0800 0502020. Lines are open 0930-1630, Monday to Friday.

Will my colleagues be told about my transition?

You are free to decide whom to tell, and when and how to tell them. The EIS will support you in the process and will communicate on your behalf if you wish.

Can I do a different job in EIS while I'm transitioning?

The EIS will work with you to identify a new, temporary or permanent role wherever possible, or to make adjustments to your current role so that you feel comfortable in the workplace during your transition.

Can I use the changing rooms or toilets which match my gender identity?

You can choose whichever facility you feel most comfortable using. If you prefer more privacy, you can use the accessible facilities.

What should I do if I'm being bullied or harassed about my gender identity or transition?

The EIS takes a zero-tolerance approach to bullying of any kind and will take prompt action to investigate and deal with any allegations. In the first instance, speak to your line manager or a member of the HR team. Confidential support is also available through the EIS' Employee Assistance Programme run by [Simply Health](#).

A colleague is about to undergo gender transition. What should I do if I accidentally misgender them during the process?

Your support is vital in creating a positive and supportive work environment for your colleague who is transitioning. You should respectfully ask them how they would like to be referred to if you are unsure at any stage about what name or pronouns to use to address them. Whilst honest mistakes may occur initially, a repeated failure to address a colleague by their chosen name and/or pronouns could be regarded as harassment and will be dealt with as such. If you make a mistake, you should apologise quickly and sincerely.

Is it appropriate to ask questions relating to transition?

Respect your colleague's privacy. If you have any questions, politely ask your colleague if they would be comfortable to answer questions as not everybody will feel able to discuss their transition openly. Be mindful that transitioning is a major decision and it could have taken many years for your colleague to reach this point. Even if your colleague is willing to answer questions, do not ask intrusive questions regarding any physiological changes they may be proposing to undertake unless your colleague initiates discussion of any such changes.

What practical support can I offer a trans colleague?

Be an ally for your trans colleague and report or challenge any unacceptable behaviour that you notice towards them. All employees have a responsibility to treat their colleagues with respect and dignity, regardless of their gender identity or gender expression.

Treat your colleague's disclosure with the strictest confidence. Whilst your team may have been notified about your colleague's transition, this may not have been communicated wider across the organisation. You should not disclose their transition or trans status to anybody else without their consent, including after their transition.

What happens after a person has transitioned?

The individual lives and works in their new affirmed gender identity, but may continue to need support navigating workplace processes and procedures.

Is there training about transition and trans equality issues?

Stonewall has a number of useful resources about transgender issues and GIRES, the Gender Identity Research and Education Society, has a [free online course](#) covering how to support someone who is transitioning and how to create a trans-inclusive workplace.

What do I do if a client is using inappropriate language about or to a colleague who is transitioning?

Immediately tell them firmly but politely that their language is inappropriate and unacceptable. Make clear that the EIS takes a zero tolerance approach to any behaviour which causes offence or distress to employees and will take appropriate steps to protect them from harassment. Ensure the colleague has support to pursue the matter through either formal or informal processes.

As the line manager of a colleague who is transitioning, how do I manage absences related to their transition?

Discuss with your colleague how much time they are likely to require in terms of appointments, surgery and recovery. Wherever possible, agree that appointments will be arranged at the beginning or end of the working day, or during a period of annual leave. Employees who are transitioning are entitled to time off in line with the sickness absence policy and should be treated no less

favourably than time off for other purposes. Reasonable sickness absence in relation to transitioning should be recorded but not used as part of the absence management “trigger” process.