

# Trans and non-binary policy

Version 2.0

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# 1 Purpose and context

1.1 This Policy sets out the University's commitment to the development of inclusive and supportive learning and working environments for trans and non-binary students and staff where all individuals have the opportunity to fulfil their potential. For the avoidance of doubt this policy is non-contractual.

1.2 This Policy is supported by Guidance documents concerning trans and non-binary students and staff, which set out practical elements of inclusive practice to support trans and non-binary people at the University. The Policy is also supported by staff development and intranet guidance to introduce the key information people need to know to work inclusively with trans students or trans colleagues.

## 2 Scope

2.1 In this Policy we use the expressions 'trans' or 'trans people' as an umbrella term to describe people who are trans, non-binary, non-gender, gender-fluid, or who have a gender identity which is not consistent with the sex they were assigned at birth. Appendix 1 contains a Glossary of terms relevant to this policy.

### Trans, non-binary, non-gender and gender-fluid people

2.2 Trans people are those whose gender identity is not the same as, or does not sit comfortably with, the sex they were assigned at birth.

2.3 Some trans people identify as women or men. Some trans people do not identify as either women or men, they may identify as both, or neither, and possibly to varying degrees, or outside of that spectrum. Or they have a fluid sense of gender identity.

2.4 The University provides the option of selecting gender markers other than 'male' and 'female' for both staff and students.

## 3 Policy Statement

3.1 UWE Bristol celebrates and values the diversity of the University community including students and staff. The University values the skills and experiences of all students and staff, including those of trans people. The University is committed to treating all staff and students with dignity and respect, and seeks to provide a positive working and learning culture free from discrimination, harassment or victimisation. You can find out more about the legislative background for this Policy in Appendix 2.

3.2 UWE Bristol recognises that there can be differences between sex assigned at birth, and gender identity and/or gender expression. We also note that a person who does not conform to societal expectations of gender might not identify as trans. UWE Bristol will not discriminate against people on the grounds of their gender identity or gender expression.

3.3 Where this policy refers to ‘trans people’, this refers to a broad range of people whose gender identity is not expressed in ways that are typically associated with their assigned sex at birth. This includes those who have non-binary, non-gender or gender fluid identities and individuals who may not identify as trans but who are impacted by matters covered under this policy.

3.4 UWE Bristol is committed to providing a supportive environment for trans staff and students, including working to provide appropriate facilities for trans student and staff groups, including use of preferred changing and toilet facilities. The University is committed to ensuring that University policies provide clear statements on harassment and bullying and ensuring a clear and positive process for disclosure of trans status and the amendment of University records.

3.5 The University recognises that to ‘out’ someone, i.e. to reveal a person’s trans status without their consent, whether staff or student, without their permission is a form of harassment and, in a number of contexts, may amount to a criminal offence. The University also recognises that protection under the Equality Act 2010 is extended to all trans individuals from the moment they indicate their intention to transition. Support is available in line with this, including to those staff or students who identify as non-binary, non-gender, or gender-fluid.

3.6 The University recognises that some trans people menstruate, carry children, give birth, are parents, experience infertility, experience the menopause, or experience medical conditions often associated with a particular sex. The University acknowledges that trans people may be reluctant to discuss conditions, symptoms or other medical details if doing so would disclose their trans status, and is working to create a culture that values diversity and normalises conversations to enable support to be provided.

3.7 The Education (No 2) Act 1986 places a responsibility upon the University to protect and promote freedom of speech as far as practicably possible and within the law for staff, students and visiting speakers. The University has in place measures to ensure the exercise of freedom of speech does not amount to unlawful harassment. For more information, check our Freedom of Speech Policy: <https://www2.uwe.ac.uk/services/Marketing/about-us/pdf/Policies/Freedom%20of%20speech%20policy.pdf> and our External Speaker Policy: <https://www2.uwe.ac.uk/services/Marketing/about-us/pdf/Policies/External-Speaker-Policy.pdf>

## 4 Policy Objectives

4.1 This policy has been developed in conjunction with trans students, staff and the wider trans community. It outlines the University’s commitments to the following principles:

- Students will not be denied access to courses, progression to other courses, or fair and equal treatment while on courses because of their gender identity or because they propose to transition, are transitioning, or have transitioned.

- Requests to change name and gender on records will be handled promptly and staff and students will be made aware of any implications of the changes.
- We will incorporate trans equality into the inclusive curriculum agenda, using curriculum reviews to ensure design and delivery of courses does not rely on or reinforce stereotypical assumptions about trans people.
- We will ensure confidentiality for all trans staff and students in line with General Data Protection Regulations (GDPR). The University will seek to obtain prior consent if it is necessary to share information about a person's gender identity. However, there may be limited circumstances where the University does not obtain consent prior to disclosing this information, such as a disclosure to protect the safety of an individual.
- Staff will not be excluded from employment or promotion or be redeployed against their wishes because of their gender identity.
- Transphobic abuse, harassment, victimisation, or bullying (name-calling/derogatory jokes (written or spoken), unacceptable or unwanted behaviour, intrusive questions) are serious, and will be dealt with using the University's Dignity at Work Policy (for incidents involving staff only), or our Policy for Bullying and Harassment of or by Students (for other incidents), alongside our Freedom of Speech Policy. Any transphobic material will be removed whenever it appears in the university's physical or online spaces, in line with under the appropriate policies and procedures. For more information check our Dignity at Work Policy: <https://intranet.uwe.ac.uk/tasks-guides/Policy/dignity-at-work> (staff link), and the Policy Framework for Student Behaviour and Health, which incorporates Student Conduct: <https://www.uwe.ac.uk/about/services/student-and-academic-services>
- We will provide a supportive environment for staff and students who wish their trans status to be known. However, it is the right of the individual to choose whether they wish to be open about their gender identity, trans status or trans history, and how that is communicated. There may be limited circumstances where an individual may be required to share this information, such as a disclosure to protect the safety of an individual.
- We will include gender identity issues in equality staff development, and include gender identity when monitoring complaints of unacceptable behaviour. We aim to analyse the

results of internal attitudinal surveys by gender identity where relevant and available. Where we do this, we will ensure that aggregated survey results will not identify individuals (see Section 5: Confidentiality).

- In providing accommodation for students, any concerns or issues raised by trans students will be handled by the Accommodation Office and will be treated fairly and in line with our obligations under equality law.
- Every trans person's transition looks different. Staff and students undergoing medical and surgical procedures related to gender reassignment will receive positive support to meet their particular needs during this period.
- We recognise that trans students and staff come from diverse backgrounds, and will strive to ensure they do not face discrimination on the grounds of their gender identity or in relation to other aspects of their identity, for example, age, disability, marriage or civil partnership, pregnancy or maternity, race, religion or belief, sex or sexual orientation. In addition, we recognise that assumptions should not be made about trans students, or staff, or their partners.
- We are committed to ensuring that the content and imagery we use in both physical and digital environments reflect the diversity of students and staff, including trans students and staff.

## 5 Confidentiality

5.1 If a member of staff or a student discloses that they have transitioned / are transitioning or intend to or are considering transitioning, it is the responsibility of all staff and students to treat this information confidentially and in accordance with data protection legislation and Gender Recognition Act 2004 obligations. Anonymous guidance can be sought from the Equality Diversity and Inclusivity Team by emailing [edi@uwe.ac.uk](mailto:edi@uwe.ac.uk). No identifying information should be shared with any person without the individual's explicit consent. However, there may be limited circumstances where the University does not obtain consent prior to disclosing this information, such as a disclosure to protect the safety of an individual.

5.2 In line with our responsibility under the Gender Recognition Act 2004 and relevant data protection legislation, any disclosure made by a student or staff member will be treated with confidentiality.

5.3 UWE Bristol has obligations to monitor staff and student equality data. The University is committed to maintaining anonymity in our reporting and will not report on numbers of

trans staff or students where there is any risk of identifying individuals. Individuals are given the option not to disclose this information, however confidential disclosure helps us to monitor the impact of policy or practices.

## 6 Ownership and oversight

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Policy Author:	Inclusive Practice Officer
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Related legislative and/or regulatory requirements	Gender Recognition Act 2004 Equality Act 2010 Human Rights Act 1998

## 7 Version history

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To be reviewed no later than	2024

Version	Date	Details	Who
1.0	2010	Policy created	Manager, E&D Unit
2.0	2021	Update for clarity, accuracy and improved practice.	Inclusive Practice Officer, EDI Team

## 8 Appendices

1. Glossary of terms
2. Legislative background



## Appendix 1: Glossary of terms

In order to understand trans issues, it is important to be aware of the variety of terms that may be used both socially and legally.

Terminology changes and its use can be highly individualised. It is important to be mindful of trends in language as a student or member of staff may associate with a term perceived by some, even members of the same community, to be inappropriate.

This glossary covers the terms used in this Policy and Guidance, and is based on AdvanceHE guidance.

### Acquired gender

A legal term used in the Gender Recognition Act 2004. It refers to the gender that a person who is applying for a gender recognition certificate (GRC) has lived for two years and intends to continue living in. **Affirmed gender** may be used when a person has transitioned but has decided not to apply for a GRC.

These terms have relevance outside of the legal context: some people use the term acquired gender to describe their identity, while other people prefer to use affirmed gender, without reference to the legal process.

### Gender

Gender refers to the cultural and social distinctions between men and women. It consists of three related aspects: a society's constructed **gender roles**, norms and behaviours which are essentially based on the sex assigned at birth; **gender identity**, which is a person's internal perception of their identity; **gender expression**, which is the way a person chooses to outwardly express their gender. Gender does not necessarily represent a simple binary choice: some people have a gender identity that cannot be defined simply by the use of the terms woman or man. It should be noted that for the purposes of UK law, sex is binary: people can only be male or female.

### Gender expression

While gender identity is subjective and internal to the individual, gender expression refers to all of the external characteristics and behaviours that are socially defined as either masculine or feminine, such as clothing, hairstyle, make-up, mannerisms, speech patterns and social interactions.

It is best practice to not assume someone's gender identity on the basis of their gender expression. If you are not sure, it is best to ask a person how they would like to be addressed.

### Gender incongruence and gender dysphoria

**Gender incongruence** is a medical term used to describe a person whose gender identity does not align, to a greater or lesser extent, with the sex assigned at birth. Where this

causes discomfort it is known as gender dysphoria. **Gender dysphoria** is a medical term describing the discomfort or distress caused by the discrepancy between a person's gender identity (their psychological sense of themselves as men or women) and the sex they were assigned at birth (with the accompanying primary or secondary sexual characteristics and / or expected social gender role).<sup>1</sup>

In order to qualify for NHS medical assistance to transition, a trans person in the UK must have a diagnosis of gender dysphoria.

### Gender reassignment

The legal term used in the Equality Act 2010 to describe the protected characteristic of anyone who 'proposes 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 physiological or other attributes of sex'.

This is the protected characteristic that protects trans people from discrimination, victimisation and harassment in employment, education and when using services. The Act requires no medical supervision or interventions for a trans person to be afforded protection.

### Gender recognition certificate

Gender recognition certificates (GRC) are issued by the gender recognition panel under the provisions of the **Gender Recognition Act 2004**. The holder of a full GRC is legally recognised in their affirmed gender for all purposes and is issued a new birth certificate. A full GRC is issued to an applicant if they can satisfy the panel that they fulfil all the criteria outlined in the Gender Recognition Act. Applicants can be UK residents or from recognised overseas territories who have already acquired a new legal gender. The Act requires that the applicant is over 18, has, or has had, gender dysphoria, has lived in their affirmed gender for two years prior to the application (known as 'real-life experience', or 'experience'), and intends to live permanently according to their acquired gender status. An individual does not need a GRC to change their gender markers or to legally change their gender on other documents, such as passports.

Some trans staff and students may be asked by a gender identity clinic to provide confirmation from their institution that they are undertaking real-life experience or experience.

**It is never appropriate to ask a trans person for a GRC and asking is regarded as unlawful** because it breaches their right to privacy. Once a person has obtained a GRC their gender history can only be disclosed where there are explicit exceptions in law:

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1 [www.nhs.uk/Livewell/Transhealth/Documents/gender-dysphoria-guide-for-gps-and-other-health-care-staff.pdf](http://www.nhs.uk/Livewell/Transhealth/Documents/gender-dysphoria-guide-for-gps-and-other-health-care-staff.pdf)

- in accordance with an order of or proceedings before a court or tribunal, when it is strictly relevant to proceedings
- for the purposes of preventing or investigating crime, where it is relevant
- for the purposes of the social security system or a pension scheme

See relevant parts of the guidance referring to trans student or staff for the forms of identification that you can ask a trans person to provide, should you need to.

### **Intersex/Variations in Sex Characteristics (I/VSC)**

Intersex/Variations in Sex Characteristics (I/VSC) is an umbrella term covering a whole range of people born with variations in sex characteristics which do not always fit society's perception of male or female bodies. Sex characteristics are naturally occurring genetic, chromosomal, gonadal, anatomical and hormonal variations.

Some people prefer to use the term Variations in Sex Characteristics (VSC), others prefer to use the term intersex, whilst others use the terminology directly related to their specific condition (i.e. medical diagnosis).

I/VSC is not a gender identity or a sexual orientation. People born with a variation in sex characteristics, like any other people, can have a wide range of sexual orientations and gender identities. People with some I/VSC conditions are covered under the Equality Act definition of disability so are entitled to access Reasonable Adjustments.

The University acknowledges that the experiences of people born with a variation in sex characteristics are diverse and aspires to extend appropriate support and protection relevant to their individual circumstances.

### **Legal sex**

A person's 'legal' sex is determined by the sex on their birth certificate and the assumption made at birth is that their gender status (boy/man or girl/woman) matches.

For the purposes of everyday life (including banking, personal identification and travel), a person's legal sex may not be the same as their self-identified gender. For instance, a trans woman can have identity documents such as a passport, driving licence and employment records based upon her gender as female, but still have a birth certificate which reflects the male sex assigned at birth.

### **Lesbian, gay, bisexual, trans plus (LGBT+)**

While being trans or having a trans history is different from sexual orientation, the forms of prejudice and discrimination directed against trans people can be similar to those directed against lesbian, gay, bisexual plus (LGB+) people and historically the two communities have coexisted and supported each other. As a result, advocacy and support groups often cover LGBT+ issues. Trans people can also identify as LGB+.

### **Non-binary**

Non-binary is used to refer to a person who has a gender identity which is in between or beyond the two categories 'man' and 'woman', fluctuates between 'man' and 'woman', or who has no gender, either permanently or some of the time.

People who are non-binary may have gender identities that fluctuate (genderfluid), they may identify as having more than one gender depending on the context (eg bigender or pangender), feel that they have no gender (eg agender, non-gendered), or they may identify gender differently (e.g. third gender, genderqueer).

Just as with trans people, non-binary people transition and live their lives in various ways – which may or may not include medically transitioning (i.e. taking hormones or having surgeries).

### **Pronoun**

A pronoun is the term used to refer to somebody for example she or her or hers or herself, or he or him or his or himself. Gender-neutral pronouns include:

- they or them or their or themselves
- che or chim or chis or chimsel
- E or Em or Eir or Eirs or Emsel
- Per(person) or pers or persel
- Xe or hir or hirs or hirsel

### **Sex**

Sex refers to the biological status of a person as male or female in their physical development. Sex is usually judged on genital appearance at birth but internal reproductive organs, skeletal characteristics and musculature are also sex differentiated.

### **Sexual orientation**

Sexual orientation is different from gender identity. It describes a person's sexual or romantic attraction to other people, or lack thereof. Trans people, like any other people, can have a wide range of sexual orientations including heterosexual, lesbian, gay, bisexual, asexual, and pansexual.

### **Trans and transgender**

Trans and transgender are inclusive umbrella terms for people whose gender identity and/or gender expression differ from the sex (male or female) they were assigned at birth. Trans people may describe themselves using one or more of a wide variety of terms, including (but not limited to), trans men and women, non-binary, dual role, gender-queer, third gender, trans feminine and trans masculine. Not all people that can be included in the term 'trans' will associate with it.

The term trans should only be used as an adjective, for example, trans people, trans man or trans woman. However, a trans person may say 'I am trans'.

### **Transition**

Transition is the process of a person changing their role in order to match their gender identity. Examples of transitioning include telling friends, family and colleagues, changing names, asking people to use different pronouns, and changing the way gender is expressed (social transition). For some people, this may involve medical assistance such as hormone therapy and surgery (medical transition). Some people will seek legal recognition by securing a Gender Recognition Certificate (legal transition). This definition does not include all possible steps, and equally not all trans people will want to, or be able to take all of the steps mentioned.

## Appendix 2: Legislative Background

### Gender Recognition Act 2004

The Gender Recognition Act 2004 allows trans people who are able to satisfy the Act's evidence requirements to apply to a Gender Recognition Panel to seek full legal recognition. If a Gender Recognition Certificate is issued, and the person's birth was registered in the UK, they will be able to obtain a new birth certificate which does not disclose the fact that they have changed gender.

The Gender Recognition Act makes it a criminal offence to pass information about a person's trans status to a third person without the consent of the trans person. The University will support those who are applying for the Certificate by providing documents when requested.

### Equality Act 2010

The Equality Act 2010 defines 'Gender Reassignment' as one of nine protected characteristics, and offers protection from discrimination, harassment and victimisation on the grounds of gender reassignment. The Act protects:

- People who are considering, undergoing, or who have completed gender reassignment;
- People who are absent from studies or work due to reasons relating to gender reassignment;
- Trans people who are not under medical supervision;
- People who experience discrimination because they are perceived to be trans (whether they are actually trans or not);
- People from discrimination by association because of gender reassignment. For example, it would protect the parents of a trans person from being discriminated against because their child is transitioning.

A person with gender dysphoria may experience uncertainty or persistently uncomfortable feelings about the gender they were assigned at birth. This can lead to anxiety and depression. In the UK, gender dysphoria is a recognised mental health condition, which may or may not amount to disability for the purposes of the Equality Act 2010. The Equality Act 2010 defines disability as a physical or mental impairment that has a substantial and long-term adverse effect on a person's ability to carry out day-to-day activities. The Act requires institutions to make Reasonable Adjustments for disabled people who are placed at a substantial disadvantage, compared to non-disabled persons, as a result of a provision, criteria or practice operated by that institution. Reasonable Adjustments need to be discussed on the basis of individual need in the context of what is sustainable by the

institution. Reasonable Adjustments for trans people could include adjusting coursework deadlines or working hours, or allowing the person time during working or teaching hours for reasons related to their transition (for example, voice therapy, counselling or recovery from medical procedures). All support offered by the University to disabled students or staff is available those disabled staff or students who identify as trans.

## Human Rights Act 1998

The Human Rights Act 1998 provides protection to trans people, principally under the right to a private life. The courts have interpreted the concept of 'private life' in a very broad way to cover, among other things, a person's right to express a sexual identity, to live a particular lifestyle and to choose the way they look and dress. It also means that personal information (including official records, photographs and letters) should be kept securely and not shared without the permission of the individual concerned.