Supporting Transgender Staff Policy

Policy information

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Summary of Document:
This policy sets out the support available to transgender (trans) and non-binary employees, from recruitment through to any transition during employment. It aims to ensure that staff who are considering, undergoing, or have undergone transition are supported in a consistent, inclusive and dignified manner.

Scope
This policy applies on an organisation-wide basis to all staff, at all levels, in all departments.

To be read in conjunction with:
133 - Equality and Diversity Policy (opens in a new tab)
995 - Respect and Resolution All Wales Policy (opens in new tab)
201 - Disciplinary Policy and Procedure (opens in new tab)
139 - Uniform and Dress Code Policy for All Health Board Staff (opens in new tab)
129 - Time off for Medical and Dental Appointments During Working Hours (opens in new tab)
768 - Managing Attendance at Work All Wales Policy (opens in new tab)
340 - Staff Psychological Wellbeing Policy (opens in new tab)
131 - Flexi Working Policy (opens in new tab)
312 – chaperone policy (opens in a new tab)

Owning group: Diversity and Inclusion Team
Executive Director job title: Director of Workforce & OD/Deputy CEO

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1 – New Policy – 31.10.2013
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6.1 – addition in the glossary: **Biological sex**: For the purposes of this policy, the term *biological sex* is used in line with the language used within the relevant legal framework and guidance. Where referenced in this policy, biological sex refers to the sex recorded or assigned at birth.'
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Keywords Transgender (Trans)

Glossary of terms

Unisex/universal facilities - the term used in this policy when referring to toilets and/or changing rooms, which must be single occupancy, self-contained units with a lockable door.

Unisex/universal *service*s - services that can be used by all, such as mixed-sex wards or individual side rooms occupied by one person only.

Single-sex services - the provision of services (and facilities such as toilets and changing rooms) which are separate services for persons of each sex or for one sex only (e.g. a service for women only or male only toilets).

Gender identity - refers to a person's internal sense of their own gender, how they personally understand and experience themselves.

Gender expression - refers to how a person externally shows or communicates their gender to others.

Affirmed gender - the gender a person knows themselves to be and chooses to express and be recognised as

Biological sex: For the purposes of this policy, the term *biological sex* is used in line with the language used within the relevant legal framework and guidance. Where referenced in this policy, biological sex refers to the sex recorded or assigned at birth.'

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INTRODUCTION

We want all our staff at Hywel Dda University Health Board (the Health Board) to feel included, so that everyone can be themselves, add value and fulfil their potential without fear of discrimination. This includes colleagues whose gender identity does not align with the sex they were assigned at birth (often referred to as transgender or trans people).

This policy is informed by the Equality Act 2010 and relevant case law, which recognise sex and gender reassignment as separate protected characteristics. It reflects the clarification that, under the Equality Act 2010, references to ‘man’, ‘woman’ and ‘sex’ are understood to relate to biological sex, even where an individual has a Gender Recognition Certificate and their legal gender differs from their biological sex under the Gender Recognition Act 2004.

On 16 April 2025, the Supreme Court clarified aspects of how ‘sex’ is interpreted within the Equality Act. National guidance is evolving, and the Health Board will continue to review and update this policy in line with Equality and Human Rights Commission (EHRC) statutory guidance as it is finalised. We recognise that this may impact colleagues and those who use our services in different ways and may cause uncertainty or concern. We remain committed to supporting our trans and gender-diverse staff.

The Health Board will apply the Equality Act, including provisions relating to single-sex services and spaces, in line with current legislation, statutory guidance and best practice, ensuring the rights, dignity and safety of all staff are respected.

Under the Equality Act, anyone undergoing, intending to undergo, or who has undergone gender reassignment is protected from direct and indirect discrimination. While we are committed to supporting trans staff, we also recognise the rights of others with protected characteristics. Where rights interact, decisions will be made on a case-by-case basis, with a clear legitimate aim and proportionate, necessary action, taking account of the dignity, privacy and safety of all staff. No single protected characteristic automatically takes precedence, and decisions will be based on proportionality, evidence and the specific context.

While non-binary is not subject to specific protection under the Equality Act 2010, non-binary staff will be always treated with dignity and respect.

Managers should seek advice from Workforce and OD where there is any uncertainty.

POLICY STATEMENT

The Health Board will not tolerate unlawful discrimination, victimisation, harassment or bullying. At the same time, it recognises that different protected characteristics, including sex, gender reassignment, religion or belief, and others, may require careful balancing.

All decisions under this policy will be made in line with the Equality Act 2010, including where it is lawful to apply single-sex provisions or other exceptions, provided this is a proportionate means of achieving a legitimate aim.

SCOPE

This policy applies to all staff, including those currently employed, potential employees, locums, staff on honorary contracts, students and volunteers.

AIM

This policy aims to provide guidance on how trans employees should be supported and treated in a dignified, non-discriminatory way.

PROCEDURE

Supporting Transition at Work

One of the most important factors in successfully supporting an employee's transition is early planning and agreeing with them how best to proceed. When an employee is considering, or are in the process of transitioning, discussions may feel sensitive or difficult. Any information shared, including what is shared, when, and with whom, will be led by the individual. Their wishes must be always respected.

Employees are encouraged to speak with their line manager as early as possible so that appropriate support can be discussed and put in place in a sensitive and supportive manner. If an employee feels they cannot talk to their line manager or that they need additional support, they can contact any of the following for help and guidance:

- Equality, Diversity and Inclusion team
- Workforce and Organisational Development (OD) team
- Trade Union Representative

All Health Board contacts will maintain confidentiality about an employees' trans status, except as agreed otherwise by the individual.

Health and Wellbeing Passport

The line manager (or nominated contact) and trans employee should complete a Health and Wellbeing Passport together, outlining the arrangements and support needed before, during and after transition. Trans employees are also encouraged to meet regularly with their manager to review the passport, review progress and agree any updates or changes required.

The timescales, activity and communication will be driven and led by the employee. If at any point they decide to delay or amend their Health and Wellbeing Passport, any information they have already shared will be kept confidential, in line with their wishes.

Informing Colleagues

Information about an employee's trans status or history should only be shared with their explicit consent. The employee should decide who shares this information, how and when it is shared, who it is shared with, and the level of detail, which may vary for different audiences.

Trans employees are not required to disclose their trans history as a condition of employment or promotion. If they transitioned before joining the Health Board, this information should not be shared unless absolutely necessary and only with their permission.

Where an employee plans to change their gender expression at work, the approach to any disclosure should be agreed with the individual on a case-by-case basis and recorded in the Health and Wellbeing Passport.

An employee's transition may be visible to colleagues and/or the public in some roles. While some staff may wish to move to an alternative role during this time, this will not be a requirement. Managers will take a supportive, individualised approach, listening to the employee's experience and working with them to identify appropriate and practical solutions.

No employee will be disadvantaged in their role, pay or career opportunities as a result of transitioning.

Use of Facilities

The use of changing, showering, toilet and any relevant facilities will be discussed and agreed, considering legal requirements. The Health Board will provide access to appropriate facilities in a way that upholds dignity, privacy and safety for all staff.

In accordance with the Equality Act 2010 where single-sex facilities are in place, this must be a proportionate means of achieving a legitimate aim, such as:

- privacy during undressing
- intimate care
- safeguarding considerations
- preventing reasonable distress

Single-sex services must be provided, based on biological sex. This does not mean automatic exclusion of trans staff from facilities aligned with their gender identity. Any decision must be justified as proportionate, necessary, and evidence based.

Decisions relating to access to facilities will be considered on a case-by-case basis, considering:

- legal obligations
- the needs and rights of all staff
- the nature of the working environment
- explicit consideration of impact on the trans employee

Trans employees will not be left without access to safe and dignified facilities, and a unisex or single-occupancy alternative will be made available.

No member of staff will be required to use a particular facility without appropriate consideration of their circumstances.

Staff must not challenge, question or attempt to 'police' individuals' use of facilities. Any concerns should be raised with their manager and advice sought from Workforce and OD so that concerns are handled sensitively and appropriately. Any inappropriate behaviour (e.g. challenging use of facilities, gossip, harassment) will be managed under the Disciplinary/Respect & Resolution policies.

Where a member of staff raises concerns in relation to sharing facilities, managers must:

- consider the concern respectfully and without assumption
- assess the situation in line with the Equality Act 2010
- identify whether a legitimate aim is engaged (e.g. privacy, dignity, safety)
- ensure any decision is proportionate and evidence-based
- document the rationale for the decision

Where gender-neutral or single-occupancy facilities are not available, the Health Board will:

- work with the employee to agree appropriate interim arrangements
- ensure access to safe, private and dignified facilities at all times
- consider the employee's preferences, legal obligations and the working environment
- ensure no employee is left without access to appropriate facilities
- review opportunities to improve access to inclusive facilities where reasonably practicable

Advice should be sought from Workforce and OD where appropriate.

Patient Preferences and Care Provision

As outlined in the 312 **Chaperone Policy** (opens in new tab), all clinical interventions may cause distress, particularly intimate examinations (e.g. rectum, genitalia, breasts), which must be undertaken sensitively.

While gender cannot be defined by appearance or stereotypes, patients may express preferences about the sex of the clinician due to personal beliefs or experiences. Such requests should be considered sensitively on a case-by-case basis, considering clinical need, proportionality, and legal obligations, and accommodated where practical.

Any adjustments must not disclose or imply a staff member's trans status. Managers must ensure staff are supported and confidentiality is maintained.
Examples:
Non-intimate care (e.g. observations, triage) → refusal is unlikely to be reasonable.
Intimate care (e.g. breast/genital exams) → preferences may be reasonable; where possible, accommodate using neutral language (e.g. *"We'll arrange an alternative clinician"*) without "outing" staff.

Uniform and Dress Code

If a uniform and/or dress code is in place for the role, managers will ensure that the trans employee has access to uniform and are supported to dress in a way that aligns with their gender identity and expression.

The Health Board adheres to the All Wales Uniform and Dress Code Policy (opens in new tab). All staff are expected to comply with this policy, including requirements related to health, safety, infection control and professional standards.

Within these requirements, managers will take a flexible and supportive approach to ensure that trans staff can dress in accordance with their gender identity at a time agreed with the individual, respecting their dignity, privacy and individual circumstances.

Where uniform or clothing is provided by the Health Board, appropriate items will be made available to the employee in line with their gender identity, on the same basis as other uniform provision (e.g. changes in role or size).

Confidentiality

The trans employees' explicit permission should always be sought to disclose any information to others. This must be on a confidential, strictly 'need to know' basis.

Employees who have undergone gender reassignment may wish to maintain privacy regarding their gender history. Anyone with access to this information must maintain the trans employees' right to confidentiality. Under no circumstances should a staff member's trans status or gender history be confirmed, implied or disclosed without their explicit consent, including in response to queries from patients, colleagues or the public

Where an individual holds a Gender Recognition Certificate (GRC), additional legal protections apply under the Gender Recognition Act 2004. It is a criminal offence to disclose information about a person's gender history, where this has been obtained in an official capacity, without their consent.

Managers must seek advice from Workforce and OD where they are unsure of their responsibilities.

Use of Pronouns

Managers will use the name and pronouns specified by the employee and should ensure these are respected in the workplace. Where appropriate, an employee's name and pronoun preferences may be recorded in the Health and Wellbeing Passport to support consistent use. Some individuals, including those who are non-binary, may use pronouns such as 'they/them' or other pronouns. Where an individual's pronouns are not known, colleagues should ask sensitively and respectfully and avoid making assumptions based on appearance.

Updating Records

Electronic records will be updated at a mutually agreed time to reflect the employee's gender identity and name. Where appropriate, this should include modifying records containing a binary title (e.g. Mr, Mrs, Miss, Ms) or a non-binary title (e.g. Mx, Ind, M, Misc).

Care will be taken to ensure that records do not link back to the former name or title, e.g. this may entail creating a whole new email address rather than simply changing the name on the existing one. The manager and employee should work together to ensure nothing is missed.

Name changes can occur informally without any legal process upon request by the trans employee. An individual does not need to hold a Gender Recognition Certificate in order to have their name details changed in any Health Board systems.

New name badges and security passes with the correct name and a new photograph will be issued, without any replacement cost to the employee.

Where possible, paper records will be updated. Those which cannot be updated will be stored in a separate secure place and marked clearly for access by specifically named persons, as agreed by the employee.

Professional Registration

If the employee's role involves professional registration, the individual is responsible for checking whether the registration body has a specific, confidential process for gender transition.

Time Off Work

An employee may wish to take a period of leave at the time of the transition and return to work in their affirmed gender.

Trans employees may undergo treatment, which can include hormone therapy and surgery. This may necessitate taking time off work, which may have an impact on workload and colleagues. Managers will be accommodating during this time and may need to consider making temporary adjustments to role requirements.

Reasonable time off will be provided to attend transition-related appointments. The length and amount of time off will vary according to individual need; therefore trans employees will be given reasonable time off to attend appointments where possible. The individual transitioning will have the right to privacy of appointments.

Absence related to surgery and recovery will be recorded as sickness absence; however, this should not automatically trigger formal sickness absence procedures. Trans employees are entitled to the same sick pay and absence provisions as all staff, in line with the All Wales Managing Attendance at Work Policy (opens in new tab).

Managers will endeavour to be flexible and supportive to employees. This should include discussing workload allocation with employees before the absence from work and on return, and any adjustments that could be made to facilitate the return to work. Managers should not seek to impose a change of duties on the individual, however, where appropriate, should seek assistance, including advice from Occupational Health, before decisions are made.

RECRUITMENT

Applicants

The Health Board welcomes applications for employment from trans people, and all applicants can be assured of equal and fair treatment.

Applicants are not required to disclose their gender identity as part of the recruitment process. Gender identity is not a relevant criterion for selection and should not be asked about or inferred at any stage of recruitment or interview.

In limited circumstances, where a lawful occupational requirement or other exemption applies, it may be necessary to request relevant information. In such cases, appointing managers must seek advice from the Workforce and OD team, as strict legal criteria apply.

Any requirement for disclosure must be accompanied by clear reassurance that the information will be treated in strict confidence and will not affect the individual's eligibility for the role.

There is no general obligation for a trans person to disclose their trans status as a condition of employment. Selection decisions must be based solely on an individual's skills, experience and qualifications.

Anyone involved in recruitment who becomes aware of an applicant's trans status must treat this information as strictly confidential, in line with relevant legislation and organisational policy.

Disclosure and Barring Services (DBS)
Some roles require a Disclosure and Barring Service (DBS) check. As part of this process, applicants are normally required to provide details of any previous names.

The Health Board recognises that this requirement may cause concern for trans applicants and employees who have changed their name.

The DBS offers a confidential checking process for trans applicants, allowing them to provide previous identity information directly to the DBS, without disclosing this to the employer.

Further guidance on the sensitive DBS application process for trans applicants is available via the DBS website: Transgender applications - GOV.UK (www.gov.uk) (opens in new tab).

References
Where a reference request is received for an existing employee who has transitioned, the Health Board will respect the employee's privacy and only respond using the employee's affirmed name and gender in the reference.

Disclosure on sickness absence will not include time taken off for transition-related medical appointments. This information is strictly confidential, and managers must be very careful of any record keeping for this.

When the Health Board requests a reference, it will be made using the prospective employee's affirmed name and gender since transitioning. No reference will be made to previous names or gender identity, unless specifically asked to do so (in writing) by the trans individual.

It may sometimes be necessary for a trans person to disclose a previous identity in order for a reference from a past employer to be obtained. In these cases, strict confidentiality and respect for dignity must be applied and protected information kept secure.

Birth Certificates
An individual who has changed gender is able to obtain a new birth certificate which will not disclose the fact that they have changed gender.

Work Permits
Staff who are working in the Health Board on a work permit or student visa are responsible for complying with any work permit/visa regulations which may relate specifically to name change or gender identity in order that the work permit/visa continues to be valid.

National Insurance
Trans employees who change their name are responsible for informing the local Department of Work and Pensions, however, they are under no obligation to provide a Gender Recognition Certificate (GRC) or disclose their trans status.

For those who wish to provide a full GRC, National Insurance (NI) contributions will be paid on the basis of their affirmed gender.

Pension
Pension entitlements and state pension arrangements are determined in accordance with current legislation. Where relevant, entitlements may depend on an individual's legal gender.

Employees are encouraged to seek advice from their pension provider or relevant authority for specific guidance.

RESPONSIBILITIES

Chief Executive
The Chief Executive holds overall responsibility for the effective management of organisational policies.

Director of Workforce and OD
- Ensure all employment policies are developed in line with employment legislation and practice.
- Ensure all employment policies are monitored and reviewed on a 3 yearly basis.

Workforce and OD
- Co-ordinate the monitoring of the effectiveness of this policy.
- Provide guidance, advice and support when required.
- Ensure fairness and consistency in the treatment of all employees.
- Refer employees to external bodies where appropriate.

Managers
- Support employees at work and encourage them to proactively discuss their individual needs and complete the Health and Wellbeing Passport.
- Maintain confidentiality at all times, including securing paper documents and files
- Appropriately investigate instances of discrimination, victimisation, harassment and/or bullying.
- Ensure they are familiar with the types of facilities available within their service (single-sex, unisex/universal, and single-occupancy), and that these are clearly communicated and signposted.
- Managers should check in with and offer appropriate support to staff following any incident where care is refused or concerns are raised relating to their gender identity or expression

Employees
- Notify the employer that they wish to transition and engage in discussions under the terms of this policy.
- Adhere to the requirements of this policy and treat trans people, including non-binary, with dignity and respect, which requires an acceptance of the needs and differences of others.
- Report any instances of discrimination, victimisation, harassment and/or bullying.

Occupational Health Department
- Provide support, guidance and advice to managers and staff.
- Respond to referrals from managers.

Trade Unions

- Encourage their members to seek help where appropriate.
- Inform members of their rights and responsibilities under this policy.

Enfys LGBTQ+ Staff Network

- Offer peer support