

# Trans and Non-Binary Inclusion Policy

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## Policy Statement

The University celebrates and values the diversity of our community including students, staff, and visitors. We value the skills and experiences of all students and staff, irrespective of their gender identity. 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, bullying or victimisation.

## Who needs to know about the Policy?

- Deans of Faculty and Pro Vice-Chancellors
- Heads of School and Department
- Teaching Staff
- Managers, supervisors, and others in control of specific areas of work that require a risk assessment
- Students

## Purpose of the Policy

The University is committed to providing an inclusive and welcoming community where staff and students can achieve their full potential and are respected as individuals. The University recognises its legal responsibility to protect the rights of trans and non-binary people and to ensure that they are not subject to any form of harassment or discrimination because of their affirmed gender identity. This policy seeks to support all staff and line managers to ensure that trans and non-binary staff and students are provided with appropriate support and treated with dignity, sensitivity and respect.

## Contacts

The People, Culture and Inclusion (PCI) team is responsible for:

- Providing advice and assistance
- Guidance and templates
- Accessing training

The team can be contacted by emailing: [equality-and-diversity@canterbury.ac.uk](mailto:equality-and-diversity@canterbury.ac.uk)

# Trans and Non-Binary Inclusion Policy

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# Trans and Non-Binary Inclusion Policy

## 1. Introduction

1.1 Canterbury Christ Church University [the University] recognises that taking steps to live in your affirmed gender can be a challenging and complex time for our staff and students. We fully recognise our legal responsibility to protect the rights of trans and non-binary people and to ensure that no individual is subject to discrimination, harassment or victimisation because of the gender in which they present themselves. We will ensure appropriate policies and practices are in place to ease any transitional period and will provide sensitive support to help navigate the changes required to the University systems and processes. We expect colleagues and students to be respectful of a person's affirmed gender, whatever their personal beliefs. We will provide guidance and support to line managers and all staff to ensure trans and non-binary people are treated with dignity, sensitivity and respect and are provided with appropriate support.

1.2 The University is committed to providing an inclusive and welcoming community where staff and students can achieve their full potential and are respected as individuals. This includes providing support and understanding to those individuals who have taken, or wish to take, steps to live in their affirmed gender. Protection under the Equality Act 2010 is extended to all trans individuals from the moment they indicate their intention to transition. Importantly, the Act requires no medical supervision or interventions for a trans person to be afforded protection. Protection and support are provided to all trans colleagues and students, including to those staff or students who identify as non-binary, non-gender, genderfluid or intersex.

## 2. Purpose and context

2.1 This Policy sets out the University's commitment to the development of inclusive and supportive working and learning environments for trans and non-binary staff and students so that all individuals have equality of opportunity.

2.2 The Policy is supported by Guidance documents concerning trans and non-binary Staff and students, which set out practical elements of inclusive practice and can be found here:

- [Guidance for Staff Supporting Trans and Non-binary Staff](#)
- [Guidance for Trans and Non-binary Staff](#)
- [Guidance for Staff Supporting Trans and Non-binary Students](#)
- [Guidance for Trans and Non-binary Students](#)

# Trans and Non-Binary Inclusion Policy

## 3. Scope

### *Trans, non-binary, non-gender and genderfluid people*

3.1 We use the expressions 'trans' throughout this policy and the guidance documents. This is an umbrella term to describe people whose gender is not the same as, or does not sit comfortably with, their sex registered at birth<sup>1</sup>. The policy also uses the expressions: non-binary, non-gender and genderfluid. **Appendix 1** contains a link to a full Glossary of terms relevant to this policy. **Appendix 2** provides the legislative background for this policy.

3.2 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 to varying degrees along the gender spectrum, or have a fluid sense of gender identity. They may also identify as being outside of the spectrum. Therefore, this policy, and the associated guidance documents, are equally applicable to people who are non-gender, non-binary and genderfluid. The terminology trans and non-binary people is intended to encapsulate this diversity.

3.3 The University provides the option of selecting gender markers other than 'male' and 'female' for both staff and students through its HR and student registration systems. The University also provides the option of 'other' for non-binary gender identities and we will continue to make improvements to the category definitions and options we provide, to better reflect the diversity of our staff and students. This will also enable the University to collect more accurate data for monitoring purposes and support compliance with its public sector equality duties. Our aim is to improve the accuracy and detail of our demographic data so we can monitor progress and support change.

### *Intersex people*

3.4 Although 'intersex' is not explicitly a protected characteristic under the Equality Act 2010, intersex people may be protected under the Act in relation to the protected characteristics of gender reassignment and sex (including perceived sex). The University also recognises the specific needs and challenges that may be encountered by some intersex people and aims to provide appropriate support and protection to all intersex people, relevant to their individual circumstances.

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<sup>1</sup> [Definition: Stonewall Glossary of Terms](#)

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3.5 Intersex people may identify as either male, female, or non-binary. Although Intersex is not a gender identity, it may fall within the Equality Act (**see Appendix 2**) and therefore also covered by this policy. Intersex is an umbrella term used for people who are born with variations of sex characteristics, and affects up to 2% of the population, with many people being unaware that they are intersex. We acknowledge that intersex people's experiences may be different from trans and non-binary people's experiences.

### 4. Policy Statement

4.1 The University celebrates and values the diversity of our community including students, staff, and visitors. We value the skills and experiences of all students and staff, irrespective of their gender identity. 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, bullying or victimisation.

4.2 The University does not discriminate against people on the grounds of their gender identity or gender expression, nor will the University tolerate such discrimination. We will ensure that there are clear and straightforward processes for staff and students to report any incidents and that our policies set out what constitutes harassment, bullying and discrimination and how this will be tackled.

4.3 We acknowledge that people may move away from their birth sex and affirm a different gender identity; this may not necessarily be binary or end at a particular point on the gender spectrum.

While this policy covers a broad range of people, including trans, non-binary, non-gender or genderfluid identities, it also covers individuals who may not identify as trans but who are impacted by matters covered under this policy, for example, a person who does not conform to societal expectations of gender.

#### ***Facilities***

4.5 The University 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 has gendered and gender-neutral facilities across its premises and supports its staff and students in using whichever facilities they consider to be appropriate for their gender identity or expression. We recognise that this is a personal choice, and individuals are best placed to decide which facilities they feel most comfortable using.

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### ***Dress code***

4.6 The University encourages and supports the right of our staff and students to dress in a manner that is consistent with their gender identity and expression.

### ***University Records***

4.7 The University will ensure there is a clear, sensitive and straightforward process for notifying of trans status and for the subsequent amendment of University records.

### ***Bullying, harassment, and transphobic abuse***

4.8 We will take appropriate action under either the staff or student disciplinary procedures where harassment, bullying, discrimination, or transphobic abuse is established. Harassment includes 'outing' someone, i.e., to reveal a person's trans status without their consent, whether staff or student. In some contexts, this could also constitute a criminal offence: under the Gender Recognition Act, it is an offence for someone who has acquired information relating to a person's application for a Gender Recognition Certificate, or their gender history before a Gender Recognition Certificate was issued them, to disclose that information to any other person. It is never appropriate or necessary to ask a trans person for a Gender Recognition Certificate, and such requests could be unlawful discrimination or harassment or could breach an individual's privacy rights.

4.9 Transphobic abuse is regarded as harassment or bullying and is wholly unacceptable behaviour. It may include, but is not limited to, name-calling/derogatory jokes, (whether written or spoken), unacceptable or unwanted behaviour, or intrusive questions. Any transphobic material, (for example mis-gendering, dead-naming, etc.) will be removed whenever it appears in the University's physical or online spaces, in line with the appropriate policies and procedures for staff and students. Reports raised will be treated seriously, and will be dealt with as outlined below, according to whether it is a staff or student matter.

### ***Reporting unacceptable behaviours***

4.10 Any occurrence of discrimination, victimisation, harassment, bullying or abuse can be reported via the [Report and Support](#) tool for staff and students. Reports raised will be taken seriously.

**For staff**, these will be dealt with using the University's [Grievance Procedure or Discipline Procedure](#).

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**For students**, these will be dealt with using the [Student Code of Conduct](#), the Unacceptable Behaviour Policy or the Student Disciplinary Procedure, as appropriate.

### *Freedom of speech*

4.11 The Education [No 2] Act 1986 places a responsibility upon the University to protect and promote freedom of speech within the law as far as practicably possible, 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<sup>2</sup>. For more information, please refer to the [CCCU Code of Practice on Freedom of Speech](#)<sup>3</sup>.

### *Menstruation, fertility, and pregnancy*

4.12 The University recognises that some trans people menstruate, carry children, give birth, are parents, experience infertility, experience the menopause, or experience medical conditions that are not usually associated with their affirmed gender. We acknowledge that trans people may be reluctant to discuss conditions, symptoms or other medical details if doing so would disclose their trans status, and we will work to create a culture that values diversity and normalises conversations to enable appropriate support to be provided.

## 5. Policy Principles

5.1 This policy has been developed in conjunction with the University community including trans staff and students, allies, and advocates for the trans community. It is founded on the University's commitments to the following principles:

- We strive to create a supportive, respectful, and compassionate environment for all trans people within the University's community, treating people according to their affirmed gender identity or gender expression.

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<sup>2</sup> Harassment under the [Equality Act 2010](#):

We adhere to the definition of harassment under the Equality Act 2010 which includes the test of reasonableness and an assessment of all circumstances.

<sup>3</sup> We will monitor any changes and reflect these in our policy, for example, if the Government proceeds with its plan to reintroduce its freedom of speech legislation.

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This includes the use of facilities, including toilets and changing facilities, the use of gender markers where they are allocated, respecting the name, title, and pronouns that they have affirmed.

- 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, e.g., age, disability, marital status, pregnancy or maternity, race, religion or belief, sex, or sexual orientation.
- We demonstrate that we value and respect our trans community by involving trans staff and students in open conversations about decisions that may affect them. We will challenge assumptions, stereotypes, and generalisations about trans students and staff, encouraging them to share their perspectives.
- We will avoid making assumptions about a person's gender identity.
- We encourage the use of gender-neutral language and encourage people to share their pronouns, if they are comfortable doing so, in emails, meetings, and interviews.
- We encourage the use of gender-neutral language and terms in all University documents.
- We respect, have compassion and understanding for the mental and physical healthcare needs that may arise from or are part of the person's expressed gender identity and will make reasonable adjustments.
- Staff and students undergoing medical and surgical procedures related to gender reassignment will receive positive, sensitive, and compassionate support to meet their needs during this period.
- We will handle requests to change name and gender on records promptly and staff and students will be made aware of any implications of the changes where it is appropriate to do so.
- We will ensure confidentiality for all trans staff and students in line with the UK General Data Protection Regulations [GDPR] and Data Protection Act 2018. We uphold people's rights to privacy and confidentiality and will ensure these are adhered to.
- We will provide a supportive environment for staff and students who do not want their trans status or history to be known. We support the right of the individual to choose whether, in which contexts and to what extent they wish to be open about their gender identity, trans status and trans history. Individuals have the right to have their privacy protected within areas and settings where they choose not to be open.
- We will ensure that students are not denied access to courses or to fair and equal treatment while on courses, or to progression to other courses, because of their gender identity or because they intend to or have transitioned.
- We will promote LGBTQ+ equality into the inclusive curriculum agenda to ensure the design and delivery of courses does not rely on, or reinforce, stereotypical assumptions about the LGBTQ+ community.



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- We will provide feedback opportunities and reporting mechanisms so that anyone who wishes to provide feedback and raise any concerns about course content and delivery can do so safely.
- In providing accommodation for students and/or staff, any concerns or issues raised by a trans person will be handled by the Accommodation Office and we will ensure they are treated fairly and in line with our obligations under equality law.
- We will not exclude staff from employment, promotion or redeploy them against their wishes because of their gender identity.
- We will include gender identity issues in equality staff development programmes and include gender identity when monitoring complaints of unacceptable behaviour.
- We will analyse the results of staff surveys by gender identity where relevant and available. Where we are able to do this, we will ensure that aggregated survey results do not identify individuals [see Section 6: Confidentiality].
- We are committed to ensuring that the content and imagery we use in both physical and digital environments reflect the diversity of all our staff and students, including trans students and staff.

### 6. Confidentiality

6.1 If a member of staff or a student discloses in confidence that they have transitioned, are in the process of transitioning or are considering transitioning, it is the responsibility of all staff and students to treat this information confidentially. The University is committed to the utmost level of confidentiality in handling data.

6.2 The University has obligations to monitor staff and student equality data and this data will also inform the University's exercise of its public sector equality duties. 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 to select alternatives as such 'prefer not to say,' however we encourage confidential disclosure, where people feel safe to do so, as this will enable us to monitor the impact of policies or practices more effectively.

### 7. Marketing, Publicity and Promotion

7.1 The University will ensure that its digital and physical environment, in terms of its pictures, images, publicity materials and literature, reflects the diversity of its staff and students.

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7.2 The University will strive to be inclusive of people of all identities and characteristics in our publicity and marketing materials. We will continue to mark important dates for the trans community, e.g., International Transgender Day of Visibility [31st March] and Transgender Day of Remembrance [20th November].

### 8. Staff Training and Development

8.1 The University is committed to high quality, targeted training, and the communications to support this, supporting the policy's effective implementation for both staff and students. We will regularly assess training and development needs, as well as communication requirements, to ensure the policy aims and principles are widely understood and adhered to.

8.2 The University will ensure that all training courses are fully inclusive of trans people, including both face-to-face training and e-learning.

8.3 The University will ensure gender identity issues are addressed in all mandatory equality training, including both face-to-face training and e-learning.

### 9. Monitoring and Review

9.1 The University will monitor and review this policy every three years, or sooner if there are relevant legislative changes. Further information, advice and guidance on this policy is available from the [People, Culture and Inclusion team](#).

# Trans and Non-Binary Inclusion Policy

## Appendix 1: Glossary of Terms

To understand the subject of trans, non-binary and gender identity 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 changes and trends in language as a student or member of staff may use a term perceived by some (including by members of the same community), to be inappropriate.

The trans community has many terms that relate to the people within it. A more comprehensive, up-to-date Glossary can be found via [Stonewall](#) or via [Inclusive Employers](#).

Explanations of some common terms used in the policy are set out below for ease, however we recommend checking the up-to-date definitions via the links above.

### 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 in for two years, and intends to continue living in. The term Affirmed gender (see below) may be used when a person has transitioned but has not applied for a GRC.

### Affirmed gender

This refers to the gender which an individual would want to be known by; it is sometimes also referred to as expressed gender or self-identified gender. This term is often used to replace terms such as new gender or chosen gender.

### Gender

Gender refers to the cultural and social distinctions between men and women. It consists of three related aspects: (i) a society's constructed gender roles, norms and behaviours; (ii) gender identity, which is a person's internal perception of their identity; (iii) gender expression, which is the way a person lives in society and interacts with others. 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, currently, non-binary genders are not recognised in UK law. However, there is growing pressure from campaign groups for this to change in line with other countries including Australia, Bangladesh, Denmark, Germany, India, Nepal, and New Zealand.

### Gender expression

While gender identity is subjective and internal to the individual, gender expression refers to all 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. Typically, trans people seek to align their gender expression with their gender identity, but this is not always possible. It is best practice not to assume someone's gender identity based on their gender expression. If you are unsure, it is best to ask a person how they would like to be addressed.

### Genderfluid

A person who does not identify as having a fixed gender identity.

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### 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. Importantly, the Act requires no medical supervision or interventions for a trans person to be afforded protection. An individual can be at any stage in the transition process, – from proposing to reassign their gender, to undergoing a process to reassign their gender, or having completed it. A person is protected from the moment they propose to transition and even if they take no further steps to transition.

The protected characteristic of “gender reassignment” in the Equality Act has been interpreted in case law to include trans, non-binary and gender fluid persons and may also apply to those who are intersex.

### 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 and sex 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, 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. It is never appropriate or necessary to ask a trans person for a GRC and asking could be unlawful discrimination or harassment or could breach an individual’s privacy rights. Once a person has obtained a GRC, their gender history can only be disclosed where there are explicit exceptions in law, which include:

- with their consent
- 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.

### Intersex

An umbrella term used for people who are born with variations of sex characteristics, which do not always fit society’s perception of male or female bodies. Intersex is not the same as gender identity or sexual orientation. Until recently, parents of intersex babies were encouraged to elect for surgery so that their child would conform to stereotypical male or female appearances. As a result, some intersex people can encounter difficulties as the gender and legal sex assigned at birth may differ from their gender identity and surgery may have compromised sexual, urinary, and reproductive function. Today, parents are advised to delay surgery until their child reaches puberty so that the child’s perspectives and experiences can inform decision-making. Some

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parents do not observe this advice and attitudes will vary country by country. Not all intersex people opt for surgery, and many will consider themselves to be intersex rather than male or female. Some intersex people may decide to transition to their self-identified gender and start to identify as trans. Other intersex people may find the use of trans-related terminology to describe their identity offensive.

### Legal sex

A person's legal sex is determined by the sex recorded on their birth certificate; the assumption made at birth is that their gender status [boy, girl] matches their legal sex. For higher education institutions [HEI's] and colleges, a person's legal sex is only relevant for insurance, pension purposes and in rare cases occupational requirements. For the purposes of everyday life, (including banking, personal identification, and travel), a person's legal sex may not be the same as their affirmed gender. For instance, a trans woman can have identity documents such as a passport, driving licence and employment records based on her gender as a woman, but still have a birth certificate which reflects the male sex registered at birth.

### Lesbian, gay, bisexual, trans, queer or questioning plus [LGBTQ+]

While being trans or having a trans history is different from sexual orientation, the forms of prejudice and discrimination directed against trans people, for example, can be similar to the prejudice and discrimination directed against people who are lesbian, gay or bisexual. Historically the two communities have coexisted and supported each other. As a result, advocacy and support groups often cover LGBTQ+ issues. Trans people may also identify as lesbian, gay, bisexual, or other sexual orientations.

### 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 (e.g., bi-gender or pan-gender), consider that they have no gender (e.g., agender, non-gendered), or they may identify gender differently (e.g. third gender, genderqueer).

Research by the Scottish Transgender Alliance found that 65 per cent of non-binary respondents identify as trans. Just as with trans men and trans women, 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, her, hers, or herself, or he, him, his or himself.

Gender-neutral pronouns include:

- they, them, their or themselves
- che, chim, chis or chimsel
- E, Em, Eir, Eirs or Emsel
- Per[person], pers or persel

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- Xe, hir, hers or hirself.

### Self-identified gender

The gender that a person identifies as, often referred to as their affirmed gender. Trans communities are campaigning for UK law to be based on self-identification.

### Sex

Sex refers to the biological status of a person as male or female in their physical development. Sex is usually recorded based 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, pansexual, omniseual and demiseual.

### Trans and transgender

Trans and transgender are umbrella terms to describe people whose gender is not the same as, or does not sit comfortably with, the sex they were registered as 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 trans women, non-binary, dual role, genderqueer, third gender, trans feminine and trans masculine. Not all people that can be included in the term 'trans' will associate with it. The terms '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'.

### Trans history

A person with a trans history will have transitioned to their affirmed gender. Consequently, they may no longer identify as a trans person, and simply see their transition as one part of their history.

### Trans man

A person who was registered as female at birth but identifies as a man or towards the masculine end of the gender spectrum. A trans man usually uses male pronouns and may transition to live fully as a man. The terms 'female-to-male' or 'FtM' are sometimes used as shorthand for indicating the direction of a person's transition, but these terms can be offensive. Trans people may use these terms to describe themselves.

### Trans woman

A person who was registered as male at birth but identifies as a woman or towards the feminine end of the gender spectrum. A trans woman usually uses female pronouns and may transition to live fully as a woman. The term 'male-to-female' or 'MtF' are sometimes used as shorthand for indicating the direction of a person's transition, but these terms can be offensive. Trans people may use these terms to describe themselves.

### Transition

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Transition is the process of a person aligning their gender expression with 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 the steps mentioned.

### Transsexual

Transsexual is a term that was traditionally used to describe a person diagnosed with gender dysphoria. Trans people are increasingly uncomfortable with the use of this term, preferring instead trans or transgender. While some people may find the term offensive, others may use it to describe themselves.

# Trans and Non-Binary Inclusion Policy

## Appendix 2: Legislative Background

There are four pieces of legislation that are relevant to trans, non-binary and gender identity in a Higher Education setting.

a) Equality Act 2010

- i. The protected characteristic in the Equality Act 2010 that relates to trans, non-binary and intersex people is called 'gender reassignment'. Individuals are protected from discrimination on the grounds that they:
  - propose to undergo gender reassignment,
  - are undergoing gender reassignment,
  - have at some time in the past undergone gender reassignment.
- ii. Gender reassignment is described in the Act as: "a process [or part of a process] for the purpose of reassigning the person's sex by changing physiological or other attributes of sex."
- iii. Whilst the phrase 'gender reassignment' may have medical connotations, the Equality Act definition is focused on the social transition [rather than any medical transition] of the trans person.
- iv. A trans person who proposes to apply for, does apply for, or is granted, a Gender Recognition Certificate will be protected under the Equality Act in relation to the protected characteristics of "gender reassignment". However, it is important to emphasise that the protected characteristic of "gender reassignment" will also apply to trans people who have not applied, or do not intend to apply, for a Gender Recognition Certificate.
- v. The protected characteristic of "gender reassignment" in the Equality Act has been interpreted in case law to include trans, non-binary and gender fluid persons and may also apply to those who are intersex.
- vi. Trans and non-binary persons may also have protection from discrimination under the Equality Act in relation to other protected characteristics. For example, a gender identity belief or gender affirmative belief (described in one case as a belief that "everyone has a gender which may be different to their sex at birth and which effectively trumps sex so that trans men are men and transwomen are women") is a protected belief under the Act, Some trans people have gender dysphoria, which would qualify as a disability under the Equality Act. Trans and non-binary people are also protected under the Act from discrimination based on their sex or perceived sex.
- vii. Protection from discrimination under the Equality Act is also extended to:



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- any person who is associated with the person who has the protected characteristics, for example a person's partner/spouse/family member/carer who may be a child or adult/son/daughter/ family member.
- any individual who is assumed or thought to have the protected characteristic by another person.
- It is also unlawful for any person to instruct someone else to discriminate against a person with one or more protected characteristics.

### b) Gender Recognition Act 2004

- i. The UK Gender Recognition Act [GRA] enables people aged over eighteen to gain full legal recognition for the gender in which they live. Applications are considered by the Gender Recognition Panel. Once a person receives a Gender Recognition Certificate [GRC], they are legally of that gender (and sex) for every purpose and have all the rights and responsibilities associated with that gender.
- ii. Employment rights for trans persons do not depend on whether a person has a Gender Recognition Certificate. Employers should not ask for a person's GRC and it should never be a pre-condition for transitioning at work. To make an application for a GRC, a person needs to show they have been living – and working - in that gender for at least two years.
- iii. The GRA gives anyone applying for or holding a GRC particular privacy rights. It is a criminal offence for someone who has “in an official capacity” acquired information relating to a person's application for a Gender Recognition Certificate, or their gender history before a Gender Recognition Certificate was issued them, to disclose that information to any other person without the consent of the individual affected or where other exemptions of not apply. The words “in an official capacity” include an employer, a prospective employer or a person employed by such an employer or prospective employer, as well as in the course of or otherwise in connection with, the conduct of business or the supply of professional services.

### c) Data Protection Act 2018 [UK]

- i. The Data Protection Act 2018 [DPA 2018] complements the EU's General Data Protection Regulation [GDPR] and adds provisions specific to the UK. It has brought stricter rules and tighter controls on personal data. Information about a person's trans status may be “special category personal data” under this legislation and such data is subject to tighter controls than

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apply to other personal data. The University therefore treats this data as 'special category data' under the new DPA 2018. This

- ii. Everyone's confidentiality should be respected. Explicit consent may be required before confidential data can be collected, used, and shared. Personal data must be looked after properly following the seven data protection principles, which include ensuring personal data is accurate, secure, and processed fairly and lawfully.
- iii. Failure to change a person's title, name and gender when requested could lead to the following:
  - Disclosure of personal information that is used, held, or disclosed unfairly, or without proper security
  - Failure to ensure personal information is accurate and up to date
  - Processing of data likely to cause distress to the individual.
- iv. There is no obligation [unless in exceptional circumstances] to inform colleagues or students that a staff member or a student is trans, non-binary or intersex. Of course, a person may choose to be open about their status – however, that should not be assumed.
- v. Information about a person's gender identity, gender history or sex characteristics is personal and is confidential. Some staff will have access to the student record system, or the staff record system and therefore may be able to view information regarding gender identity, however all staff are trained and bound by data protection laws.
- vi. Managers or professional services staff who become aware, in that capacity, of a person's trans, non-binary or intersex status must seek the permission of the trans, non-binary or intersex person to disclose that information to others. This should be on a confidential, strictly 'need to know' only basis, unless the person to whom that information relates consents [[see the University's Data Protection Policy](#)]

### d) The Human Rights Act 1998

- i. Article 8 of the European Convention on Human Rights, as enacted under the Human Rights Act 1998, protects a person's rights to a private and family life. This can include a person's right to remain private about their identity, but also to live in a particular way or express oneself in a particular way.
- ii. Information that relates to a person's trans, non-binary or intersex status is owned by the individual and so they are the ones that should choose to share it [or not]. Within this principle, anything that is considered personal information [records, images and letters] should be kept secure and not shared without the permission of the individual.

## Trans and Non-Binary Inclusion Policy

- iii. There are however exemptions to this [and in the other Acts mentioned above], where it would be lawful to share this information without permission. For example, if there is a safeguarding issue or a crime has been committed.

## Trans and Non-Binary Inclusion Policy

Document Information	Description of Document Information
<b>Document Title</b>	Trans and Non-Binary Inclusion Policy: Policy
<b>Department Owner</b>	People, Culture and Inclusion Team (based within Human Resources and Organisational Development)
<b>Document Category</b>	<ul style="list-style-type: none"> <li>- <b>Academic</b></li> <li>- <b>Administrative Practice</b></li> <li>- <b>Equality and Diversity</b></li> <li>- <b>Human Resources</b></li> <li>- <b>Students</b></li> </ul>
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