



Transitioning at Work

A Guide for Managers and Employees

**An exemplar policy for businesses and other organisations which
can be adapted and customised to suit the nature of the
organisation**

**The Beaumont Society
27 Old Gloucester Street
London
WC1N 3XX**

www.beaumontsociety.org.uk

Registered Charity No: 1135548

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1. Introduction

Our policy is to support and develop every member of our staff throughout their employment to deliver our vision.

Our organisation is committed to equality of opportunity for trans people throughout recruitment and employment, including supporting trans employees through any transitioning process. We will not tolerate discrimination, victimisation or harassment on the basis of a person's gender identity, gender expression or trans status. We seek to provide a supportive environment for trans staff and to create a culture and environment where trans staff are able to thrive and are well supported during any process of transition.

The purpose of this policy is to assist trans employees and managers in our organisation with practical information on workplace support.

2. Definitions and Terminology

'Transgender' or 'trans' are umbrella terms for those who experience some degree of gender incongruence, gender diversity or gender dysphoria. Their gender identity is not the same as, or does not sit comfortably with, the sex they were assigned at birth. This could include people who:

- Are intending to undergo, are undergoing, or have undergone, gender reassignment at any stage;
- Identify as having a gender different from that which they were assigned at birth and are planning, or have had, medical interventions such as hormones or surgery;
- Identify as having a gender different from that which they were assigned at birth, but who are not planning any medical interventions; and/or
- Are non-binary – that is, they are not solely male or female. They may define themselves as both, neither, or something entirely different. They may or may not have medical interventions to align their body with their non-binary gender identity.

These are not mutually exclusive alternatives.

'Transitioning' is the process undertaken by a trans person in order to bring their gender presentation into alignment with their gender identity. This often involves dressing differently, using a different name and pronoun (e.g. she, he, or they) and changing official documentation. It may involve various types of medical or surgical treatment, although this is not the case for all trans people.

Our organisation recognises that there is no right or wrong way to transition and is committed to supporting each individual in their decisions. N *[name or role of relevant person]* is a trans ally and can be contacted to support any individual thinking of transitioning. There is more information in the Glossary.

3. The Legal Framework

The main pieces of legislation in the UK that affect trans people are:

3.1 The Equality Act (2010)

The Equality Act (2010) protects against discrimination because of gender reassignment in employment and service delivery. It bans direct and indirect discrimination, harassment and victimisation.

The Act makes it clear that it is not necessary for people to have any medical diagnosis or treatment to gain this protection; it is a personal process of moving away from the gender assigned at birth to the correct gender.

You do not have to have undergone surgery and can be at any stage of transitioning (from proposing reassignment, to having completed it).

The Equality Act covers perception, discrimination and associative discrimination. If you are perceived to be gender variant then you are covered. So too if your close connection with a trans person is a reason for discrimination, the protection is broad.

The employer organisation **and** individuals are liable for discrimination. You can be personally sued for discrimination and for aiding and inducing it. Declining to recruit a person who is trans is direct gender discrimination and in breach of the Equality Act (2010). The protection runs throughout the employment from recruitment to dismissal.

N.B. The wording of the Act is “gender reassignment” but this is now viewed as an outdated and misleading description, as is the word ‘transsexual’. (However, these terms are still the words used in medical and legal documents.)

3.1.1 Genuine Occupational Requirements

In the vast majority of cases, the gender of a worker is of no relevance to their ability to do a particular job. However, the Equality Act (2010) does allow for an exception where being of a particular sex is an ‘occupational requirement’ of that post. If this is the case for an employee transitioning at work, they will be re-deployed into a suitable position.

3.2. Gender Recognition Act (2004)

The Gender Recognition Act (2004) enables people aged over 18 to gain full legal recognition for the gender in which they live. The Act gives trans people the right to obtain a new birth certificate. Applications are considered by the Gender Recognition Panel. To make an application for a Gender Recognition Certificate (GRC), a person needs to show they have been living, and working, in the acquired gender for at least two years. Once a person receives a GRC, they are legally of that gender for every purpose and have all the rights and responsibilities associated with that gender.

Employment rights do not depend on whether a person has a GRC. Employers should not ask for a person’s GRC and it should never be a pre-condition for transitioning at work.

The Gender Recognition Act gives anyone applying for, or holding, a GRC particular privacy rights. It is a criminal offence to pass on information acquired 'in the course of official duties' about someone's gender recognition, without the consent of the individual affected. 'Official duties' include employment, trade union representation or supply of business or professional services.

4. Discrimination, Harassment and Bullying

All employees have the right to work in an environment free from discrimination and harassment; one that promotes dignity and respect to all. Underpinning this is the Equality Act (2010), whereby transgender identities (along with eight other characteristics) are protected. All employees must consider how they can work preventively and reactively against discrimination and harassment of these groups.

Employees who believe that they are experiencing bullying, harassment and/or discrimination because of their trans status should report it to their line manager or other appropriate manager.

Line managers have an obligation to prevent harassment or bullying and to take immediate action once it has been identified, whether or not a complaint has been made. Staff affected by inappropriate language or behaviours can also report complaints through their line manager or HR.

5. Supporting Transitioning Employees

An employee intending to transition at work can seek support from their line manager in the first instance. Additional support is available for the individual and manager from HR. Staff supporting a transitioning employee should be aware that it is unlawful to disclose the transgender status of anyone without their consent. It is extremely important that transitioning employees are reassured that they will be protected from any transphobia, bullying, harassment and discrimination in the workplace.

Managers should appreciate that it can be an extremely difficult step for someone to approach their manager about transitioning. Once an employee has notified their manager of their intent to transition or that they are transitioning, a face-to-face meeting in a suitable space, where confidentiality can be maintained, should be arranged with them to discuss what support the organisation can give during and after the transition process. The trans employee should have the option of being accompanied by a friend, colleague or trade union representative to this meeting if they wish. We recognise that the transition process within the workplace needs to take into account the preferences and needs of the individual concerned and balanced with the continued smooth running of the organisation.

Managers should be aware that in preparation for part or full gender reassignment surgery, the employee concerned usually will need to live in their preferred gender identity full-time for at least a year. This is sometime known as 'social gender role transition' or 'real life

experience' and will help in confirming whether permanent surgery is the correct option for them. **It is important to remember that a person can still reassign their gender with or without the use of hormone treatment or surgery.**

5.1. Transitioning Support Plan

The employee and their line manager (or appropriate person identified to support the employee) should agree a support plan to assist and run alongside the management of the transition process. The purpose of the plan is to ensure that a mutual understanding and commitment / course of action is agreed in order to facilitate the employees transitioning in the workplace. A template support plan can be found in Appendix B. This can be modified to suit individual needs. Those involved should be guided at all times by the individual's preferences whilst balancing this with the job role and the needs of the business, to enable the transitioning to be as smooth as possible.

The plan should cover a number of areas such as the agreed dates of transition and when and how disclosure will take place. Some suggested points for discussion can be found in Appendix C. Timescales should be agreed by both as this will assist the organisation to consider any necessary arrangements for time off work in advance and when changes to records are likely to be required.

Ideally, the support plan should be reviewed at least every month for the first 6 – 9 months but should also be reassessed at each significant stage of the process and at any time upon request by the line manager or employee.

The manager overseeing the support plan should ensure continuous communication with the employee and under no circumstances should any communication or actions be taken without the agreement of both parties.

6. Confidentiality

Ensuring confidentiality is vitally important. Many trans people will already have faced discrimination, victimisation and harassment, and in order for them to feel safe and respected at work trans employees need to know that information about their gender history is treated confidentially.

The support plan, together with any notes of meetings must be kept strictly confidential and agreement should be reached on where copies should be kept and who should have access. Any electronic documents should be password protected with recorded agreement of the individual, as to who should have access.

The Gender Recognition Act (2004) gives anyone applying or holding a GRC particular privacy rights. It is unlawful and an offence to disclose a person's trans status without their consent. Any deliberate or inappropriate release of confidential information leading to a trans person being 'outed' against their stated wish, whether internally or externally, will be treated as a misconduct matter and could lead to disciplinary action being taken up to and including dismissal.

7. Communication

The line manager/ HR and employee will discuss the individual's preferences in relation to informing others including other managers, colleagues, customers and other relevant contacts. They will agree whether the employee will do this, whether they would prefer the manager or a work colleague to do this, or a mixture of these options. Whatever is decided, both parties will be in agreement with both the content and the timings of this.

Managers/ HR should work with the individual and agree when and how this should happen, including the details of the communication / message and who it will be shared with. Levels of disclosure may vary in detail for different types of contacts and will be agreed in advance.

All members of staff should refer to anyone who transitions by their new name (if this is the case) and use pronouns that are acceptable to the new gender identity based on the advice of the trans employee.

8. Uniforms and Dress Codes

If a uniform is in place for the role, managers should comply with the employee's preference without delay or as soon as practicable. Some trans employees may need access to both male and female uniforms and managers should be flexible and support the preferences of the trans person wherever possible. Any requests for clothing should be supported where reasonable, in line with health and safety requirements and the genuine occupational requirements of the role.

9. Use of Facilities

Trans people are entitled to use single sex facilities in accordance with their correct gender. For non-binary people, this might mean using gender-neutral facilities, or using a combination of different facilities. A trans employee should not be invited to use accessible toilet facilities nor facilities associated with the gender they do not identify with, unless they wish to do so.

The support plan and discussion with the individual should agree the point at which the use of facilities such as changing rooms and toilets will change from one sex to the other. This can be at any point that the transitioning employee feels comfortable with.

10. Updating Records

All employees are entitled to have all their workplace records changed to reflect the name, title and gender that they have adopted. There is no requirement that a Gender Recognition Certificate (GRC) should be produced to change any documents. It is an offence to demand to see a GRC. To avoid confusion, the employee should notify organisations such as pensions, National Insurance and HMRC of the new name and title as soon as possible.

HR will support managers in ensuring records are updated in a timely manner, to coincide with the date on which the workplace transition begins and has been agreed with the employee. Care will be taken to ensure that records do not link back to the former name, and the manager, HR and employee should work together to ensure that nothing is missed.

In cases where an employee has changed their personal information on some documents but not others it is important for managers and HR to consider how these different documents are stored and who has access to them so that the employee is not inadvertently 'outed' if a member of staff is able to link up old and new documents. The manager or HR should also inform the transgender employee which documents contain old information. A new Personal Record File will be created, and any relevant previous records removed and placed in a confidential file that will be secured with a password.

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

Paper records will be updated where possible. Those which cannot be updated, e.g. paper copies of references relating to the employee's recruitment, will be stored in the newly created file and clearly marked as only to be accessed by named persons.

11. Attendance at Appointments and Absence from Work

Transitioning can be a fairly lengthy process depending on the types of medical treatment a person may wish to access, if any. The employee may need to take time off work for medical assessments and treatments such as surgical procedures, hair removal and voice coaching. These types of procedures should not be viewed as elective or cosmetic. An employee may also become unwell as a result of hormone treatment and therefore take time off from work. Consultations and hospital appointments may require full days away from work and it is good practice to discuss as far as possible in advance, the time away from work that an individual may require and how these absences will be managed.

Under the Equality Act (2010) section 16, it is unlawful to treat these types of absences differently and therefore less favourably, than absences due to illness or injury. Therefore, when a trans employee is absent for transition-related appointments, treatment or surgery, then normal absence arrangements should apply.

Transition-related absences will still be managed under the Attendance Management Policy, but any action should take into account the circumstances and background relating to the absences. Some absences e.g surgery, doctors and hospital appointments etc, whilst being recorded and managed should not form part of the absence management procedure. If a transgender employee has a surprisingly high absence rate it is important to consider whether discrimination, harassment or victimisation is affecting the employee's wider health and well-being. [Ideally, The Absence Policy should include a paragraph relating to absences by trans people in the process of transitioning.]

11.1 Reasonable Adjustments

Employees may need reduced hours, or duties, or other changes to usual working arrangements for a temporary period following some treatments. Guidance from Occupational Health may be sought and taken into consideration. Managers should be as flexible as possible to accommodate this. Flexibility should also be offered in taking annual leave or rearranging working hours in order to attend appointments.

11.2 Customer-Facing Roles

There is no reason why an employee who is transitioning should not continue in a customer-facing role. There is no need to be absent from work, although the employee might prefer a period of redeployment during transition, or as a permanent change. Managers and HR will work with the employee to find a solution that meets the needs of both the employee and the organisation.

12. Recruitment

People who have already transitioned have no obligation to disclose their gender history. Job applicants and interviewees should not be asked their gender identity during the recruitment process. It is not a relevant criterion in selection and there is no obligation for a trans person to disclose this as a condition of employment.

If they choose to disclose, this is not in itself a reason for not offering employment, and non-disclosure or subsequent disclosure is not grounds for dismissal. Recruiting managers who become aware that an applicant is trans must maintain full confidentiality in relation to this. Applicants and interviewees should not be asked their gender status if this has not been declared. All candidates should be treated with dignity and respect in accordance with the values of our organisation.

13. Disclosure and Barring Service (DBS) Checks

Dependent on the role, an individual may be required to complete a DBS disclosure form to check for any previous convictions under their current and any previous name. The DBS process is supported by a confidential checking process for trans applicants who do not wish to reveal details of their previous identity, allowing the individual concerned to complete the process in the standard way whilst notifying DBS confidentially. Trans applicants should contact the DBS sensitive applications line on 0151 676 1452 or email sensitive@db.s.gsi.gov.uk for further advice about completing the form.

14. References

Where a reference request is received for an existing employee who has transitioned, we will respect the employee's privacy and only respond using the employee's correct 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 person

15. Qualification Certificates

Our organisation recognises that it can be difficult and expensive for a trans person to change their qualification certificates. If these are in a former name then where possible a record will be made that the certification has been seen, but a copy will not be taken. If it is absolutely necessary for us to store a copy, then it will be stored securely and only accessed by named persons.

15.1 Professional Recognition

If the employee's job involves professional registration we will check whether the registration body has a specific, confidential process for gender transition.

16. Roles and Responsibilities

All employees should:

- Ensure that they promote a working environment that is inclusive to everyone, irrespective of individual backgrounds, in line with the organisation's ethical framework and code of conduct.
- Report any instances of harassment, victimisation or discrimination.

Transitioning Employees should:

- Seek support from the organisation through the identified channels.
- Engage with managers and HR around the logistics of transitioning in the workplace.

Line Managers should:

- Ensure that colleagues are informed about the employee's transition in a manner that has been agreed with the employee.
- Maintain confidentiality at all times. (This is a legal requirement.)
- Thoroughly investigate any reports of instances of harassment, victimisation or discrimination, and where proven instigate disciplinary procedures.
- Support the employee where necessary and appropriate.

HR should:

- Maintain confidentiality, including securing paper / electronic documents and files
- Support the changing of names, titles and pronouns on email and other systems.
- Co-ordinate the provision of updated security passes and ID badges.
- Provide trans-equality training as a general part of the equality and diversity training programme.

17. Support for Employees with a Family Member who is Transitioning

If an employee is supporting a family member who is transitioning, they may need to take time off to attend appointments and treatment, or to give assistance following surgical procedures. Requests for time off should be considered sympathetically.

Glossary

Gender binary: the classification of sex and gender into two distinct and disconnected forms of feminine and masculine.

Gender dysphoria: a medical term for deep-rooted and serious discomfort or distress because of a mismatch between a person's biological sex and gender identity; overwhelming desire to live in a gender different from that assigned at birth.

Gender expression: a person's external gender-related behaviour and appearance, including clothing.

Gender fluid: having a gender identity which varies over time.

Gender identity: a person's deeply felt internal and external experiences of gender, which may or may not correspond to the sex assigned to them at birth.

Gender reassignment: (also known as gender affirmation or gender confirmation) the process of transitioning from the gender assigned at birth to the correct gender. This may, or may not, involve medical and surgical procedures.

Gender Recognition Certificate: issued by the Gender Recognition Panel under the requirements of the Gender Recognition Act (2004). It signifies full legal rights in the acquired gender and allows the issuing of a replacement birth certificate.

Gender variance: gender expression that does not match society's norms of female and male.

Legal sex: the sex recorded on one's birth certificate. Rarely relevant at work. Currently only the binary options of female and male are legal in the UK. The legal sex can be changed by applying to the Gender Recognition Panel.

Non-binary person: a person who does not identify as solely female or male. They may identify as both, neither, or something entirely different.

Transgender or trans person: a person whose gender identity does not conform to the sex they were assigned at birth. These are inclusive umbrella terms, including people who describe themselves as transsexual, cross-dressing people, and those who have a more complex sense of their own gender than either 100% female or 100% male. Those who identify as non-binary, gender fluid or gender variant might include themselves in this group.

Transsexual person: This is the legal and medical term for someone lives (or wishes to live) permanently in the 'opposite' gender to that assigned at birth. It is not popular and is rarely used by those to whom it applies. It is specific and does not include non-binary identities.

Action Plan Template

Under no circumstances should any communication or actions be taken without the explicit consent of the individual. The action plan must be kept strictly confidential.

Planning your transition

Your new name (in full if known)	
Your role	
Name of line manager	

The Action Plan should include (if possible) the dates or expected timescales of:

- Appointments with doctors
- When to inform the person's department
- The start of any hormone therapy and/or medical procedures
- Any change of name or personal details such as title
- Change of gender

The Action Plan should also consider:

- Which amendments to records and systems will be required
- Whether training or briefing of colleagues, external contacts, service users will be required, when this will occur and who will carry this out
- Whether the employee wants to inform relevant people in person, or for this to be done on their behalf
- Whether they want to continue in their current role or consider redeployment (temporary or permanent) or another arrangement.

There is an example of an Action Plan on page 15.

No.	Area of discussion:	Action:	Date for Completion By:	Completed
1.				
2.				
3.				
4.				
5.				
6.				

Use a continuation sheet if required

Transition Support Plan – Points for Discussion

The points below are by no means an exhaustive list but give an indication of the general points for discussion as part of developing a transition support plan:

- The expected point at which the employee will appear at work in the new or adjusted gender.
- Whether the individual wishes to stay in their current role now they have disclosed their trans status or, if possible, would prefer to be redeployed (including during or after gender reassignment).
- Whether there are duties within the role that should not be undertaken at specific times within the transition process e.g. heavy physical work.
- What risks may arise for the employee in the workplace now they have disclosed their trans status, e.g. removed wording. How does the employee wish any negative reactions to be managed?
- The expected point or phase of change of name, personal details and social gender if these are things that the individual is planning.
- The expected point at which the individual would like to be issued with a new or an additional ID card that will allow them to accurately reflect their gender identity.
- Whether the employee wishes to inform management, colleagues and associates, or would prefer this to be done by someone else who is agreed by both to be suitable.
- When the disclosure is to take place and the depth of the disclosure so that appropriate support can be provided for the individual and for other staff.
- How much training or briefing of colleagues will be necessary, at what point and by whom.
- Referrals to Occupational Health or staff support mechanisms.
- What amendments will be required to records and systems, and the **and** their security?
- Agreeing a dress code or uniform requirements (if relevant).
- Agreeing the point at which the individual will commence using single-sex facilities appropriate for their gender identity e.g. toilets and changing areas.
- Liaison with any external agencies in respect of any outstanding matters that the employee is currently involved with.
- The expected timescale of any medical or surgical procedures and the time off required for medical treatment. (N.B. time off for treatments associated with gender reassignment are specifically protected under the Equality Act, 2010). This may be difficult to assess if there are long waiting times at the Gender Clinics.
- Identify support needed now, and possible support for the future.
- Continue to book in meetings to discuss and agree action plan.

No.	Area of discussion:	Action:	Date for Completion By:	Completed
1.	<p>Current Job Role. Is this suitable? What alterations need to be made to the role/environment? What other options are available?</p>	<p>Current job role is suitable but X feels uncomfortable in the customer facing part of the role until stakeholders outside of the organisation have been informed. X' s line manager will work with X and HR to put a communication plan together for informing customers. Discuss with X whether she wants to be removed from customer contact until they have been informed.</p>		
2.	<p>Notifying Colleagues. Do you want to be involved? How would you like this to happen?</p>	<p>X would like to keep this low key. It has been agreed that her immediate colleagues will be informed via 1 to 1 discussions with them, HR and X, and other colleagues at the site will be informed via team meetings with their line managers and HR.</p>		
3.	<p>Timescale for transitioning. What time off will be needed for medical appointments? Use of Holiday/Authorised absence Cover for Planned absence Reintroduction to workplace after surgery</p>	<p>X will need time off for ongoing medical appointments and surgery as she intends to fully transition. The dates for surgery have not been confirmed yet. Most of the time off she needs can be covered by paid sick leave and holiday. In line with the company absence policy, she will be able to take additional time of as authorised absence depending on the surgery timelines which will need to be discussed nearer the time. X should inform HR as soon as she knows the dates for her surgery so that her line manager can arrange cover for her role.</p>		

Use a continuation sheet as appropriate.

Further Support

Beaumont Society is the longest established support group in the UK for transgender people and their families. It is a support network that promotes better understanding of the issues and challenges that trans people and their families face.

www.beaumontsociety.org.uk

GIRES – Gender Identity Research and Education Society initiates, promotes and supports research, particularly to address the needs of people who have a strong and ongoing desire to live and be accepted in the gender in which they identify.

www.gires.org.uk

Equality and Human Rights Commission (EHRC) is a statutory body with responsibility for protecting, enforcing and promoting equality across all protected characteristics.

www.equalityhumanrights.com

The Gender Trust is recognised as an authoritative centre for professional people who encounter gender identity-related issues in the course of their work.

www.gendertrust.org.uk

Stonewall is a charity that works with organisations to support LGBT staff by offering support in creating inclusive, equal and inspiring working environments.

www.stonewall.org.uk