



**Joint Policy for Cumbria Partnership NHS Foundation Trust & North
Cumbria University Hospital NHS Trust**

Policy Title: Gender Diversity and Inclusion Policy (Joint)

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Cumbria Partnership NHS Foundation Trust | North Cumbria University Hospitals NHS Trust

Policy On A Page

SUMMARY & AIM

This joint policy forms the overarching document to support inclusion of all gender diversity within both Cumbria Partnership NHS Foundation Trust and North Cumbria University Hospitals Trust.

It is to provide guidance on how to support Transgender and gender questioning children and adults who access clinical services across the Trusts; it is also designed to support Transgender staff in the workplace.

KEY REQUIREMENTS

The policy is purposely split into sections to support staff:

- General principles, the law, and information
- Providing care for adult Transgender and gender questioning patients and patients and their families and carers
- Providing support for Transgender and gender questioning children and young people
- Providing support for Transgender staff

This policy should be read in conjunction with both Trusts Absence and Safeguarding policies and Trust Values.

TARGET AUDIENCE:

All those who undertake work for Cumbria Partnership NHS Foundation Trust and North Cumbria University Hospitals, be that permanent, temporary or agency.

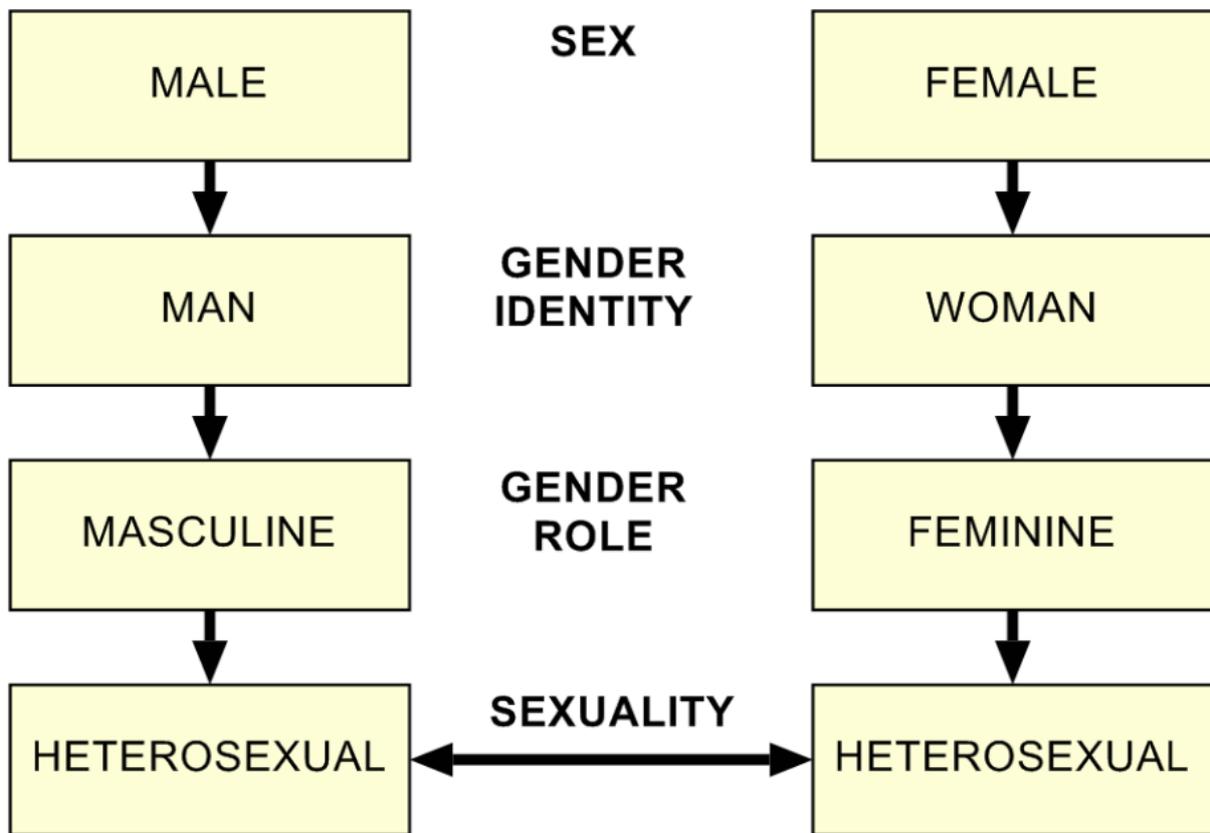
TRAINING:

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TABLE OF CONTENTS

BINARY MODEL GRAPHIC:.....	4
1. INTRODUCTION	5
2. PURPOSE	5
3. POLICY DETAILS:.....	5
3.1 Legal Framework	5
3.1.1 The Equality Act 2010	6
3.1.2 The UN Convention on the Rights of the Child (UNCRC).....	6
3.1.3 Gender Recognition Act 2004	6
3.1.4 General Data Protection Regulation (GDPR)	6
3.1.5 Non-binary Identities and the Law	6
4. TRAINING AND SUPPORT	7
5. PROCESS FOR MONITORING COMPLIANCE	7
6. REFERENCES:	7
7. ASSOCIATED DOCUMENTATION:	7
8. DUTIES (ROLES & RESPONSIBILITIES):	8
8.1 Chief Executive / Trust Board Responsibilities:	8
8.2 Executive Director Responsibilities: Director of Workforce & OD	8
8.3 Line Managers Responsibilities:	8
8.4 Staff Responsibilities:	8
8.5 Approving Committee Responsibilities:	8
9. ABBREVIATIONS / DEFINITION OF TERMS USED	9
APPENDIX 1 - GUIDANCE – GENDER BASED LANGUAGE	9
APPENDIX 2 - GUIDANCE – PROVIDING CARE	13
APPENDIX 3 - GUIDANCE – TRANSGENDER STAFF	17
DOCUMENT CONTROL	19

BINARY MODEL GRAPHIC:



Lev, A.I., (2004) Transgender Emergence

1. INTRODUCTION

Transgender people are people who do not conform to typically perceived societal/cultural ideas of gender identity, roles and/or expression. A person's **gender identity** is their sense of self, who they are and is self-defined. A person's **gender expression** is how they choose to present their gender via their appearance. **Gender roles** govern people's behaviour, how they act. These three elements can combine in any variety and are subject to change over the course of a person's lifetime. This applies to all people regardless of whether they are transgender.

Some people have a condition known as **gender dysphoria** and may seek medical treatment to alleviate their symptoms which may include therapeutic interventions, hormone treatment, surgical procedures and undergoing social Transition to live their life in a way which feels more authentic to their identity.

Gender and sexual orientation are not linked but both do form part of a person's identity.

Transgender terminology is a complex area; the terms referred to in this policy apply widely in the United Kingdom and are subject to change. Please refer to appendix A to view the terminology used throughout this document.

2. PURPOSE

CPFT and NCUH both aim to inclusively value all views on shaping patient and employee experiences. The purpose of this information is to provide a framework for managers and staff to support patients, carers, staff and volunteers who are transgender or gender questioning.

This policy aims to ensure that all patients and staff of CPFT and NCUH are respected and valued. Working together in a collaborative way, which is sensitive to the needs of each individual by providing staff and managers with the information and good practice required for both transgender and gender questioning patients and staff.

3. POLICY DETAILS:

3.1 Legal Framework

A transgender or gender questioning person, regardless of their age, does not have to hold a Gender Recognition Certificate (GRC), identify, act or behave in a particular manner in order to be treated with dignity and respect. Many individuals encounter discrimination and Transphobia as a direct result of their gender identity, expression or role deviation from perceived norms. The current legislation and laws in place to protect transgender people are:

It is a criminal offence to disclose someone's transgender history without their consent and breaches of such confidentiality will be taken seriously. Trans

status must also be treated as sensitive information under the Data Protection Act.

3.1.1 The Equality Act 2010

The Equality Act 2010 (The Act) protects people on the basis of gender reassignment from direct and indirect discrimination and harassment. This includes discrimination by association and discrimination against people perceived to have the protected characteristic of gender reassignment. The Act also places a proactive duty on public organisations through the Public Sector Equality Duty 2011 (PSED) to promote equality of opportunity, foster good relations and eliminate unlawful discrimination between people who have the protected characteristic of gender reassignment and people who do not.

3.1.2 The UN Convention on the Rights of the Child (UNCRC)

The UNCRC gives children the rights: to say what they think should happen when adults are making decisions about them and to have their opinions taken into account; to freely express their thoughts and opinions; to privacy and to good quality health care.

3.1.3 Gender Recognition Act 2004

The Gender Recognition Act 2004 provides transgender people with the opportunity to obtain legal recognition in their acquired gender by being issued with a Gender Recognition Certificate (GRC). Anyone with a GRC will be legally recognised 'for all purposes' as their acquired gender. When someone has a GRC, any disclosure without consent of information about that person's gender history, which has been obtained in an official capacity may constitute a section 22 breach of the GRA 2004 and be liable to criminal prosecution.

3.1.4 General Data Protection Regulation (GDPR)

The GDPR controls how personal and special categories of personal data can be processed and used. Special category of personal data can be defined as racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person's sex life or sexual orientation. Processing of special category data must meet one or more of GDPRs 10 conditions Art 9 (2) for processing special categories of personal data.

3.1.5 Non-binary Identities and the Law

There is a lack of clarity around non-binary identities within the current legal framework. The descriptive term used within legislation is "gender reassignment" which many people associate with binary identified transgender people, trans men and women who are seen to "socially transition" from one gender to another. However this is not implicitly indicated within legislation and non-binary people can be seen to socially transition on disclosure of their identity and be seen to be undergoing gender reassignment. No test cases have occurred to confirm or refute this interpretation, but in the interests of inclusivity non-binary people should be treated as being covered by legislation in reference to the protected characteristic of "gender reassignment". However

it must be noted that reassignment is not the end goal for all dysphoric individuals.

4. TRAINING AND SUPPORT

The following appendices documents contain more detailed information on gender identity and inclusion for both patients and staff. This supports the Mandatory Equality and Diversity E-learning training for all staff.

Further training and advice is available, please contact the Equality, Diversity and Inclusion team on: EqualityandDiversity@cumbria.nhs.uk

5. PROCESS FOR MONITORING COMPLIANCE

The process for monitoring compliance with the effectiveness of this policy is as follows:

Aspect being monitored	Monitoring Methodology	Reporting		
		Presented by	Committee	Frequency
Compliance	<ul style="list-style-type: none"> • EDI Incident Reporting through Annual Report 	Kate North	Quality & Safety Committee	Annually
Awareness	<ul style="list-style-type: none"> • Staff Survey • EDI Incident Monitoring • EDI Rep feedback 	Kate North	Quality & Safety Committee	Annually

Wherever the above monitoring has identified deficiencies, the following must be in place:

- Action plan
- Progress of action plan monitored by the Quality and Safety committee minutes
- Risks will be considered for inclusion in the appropriate risk registers

6. REFERENCES:

Page 4, Binary Model Graphic, Lev, A.I., (2004) Transgender Emergence

7. ASSOCIATED DOCUMENTATION:

CPFT Sickness Absence Management Policy POL/004/005
 NCUH Attendance Management Policy and Procedure
 CPFT Safeguarding Policy POL/001/006
 NCUH Safeguarding Adults Policy
 NCUH Safeguarding Children Policy
 CPFT Our Trust Values (Intranet page)
 NCUH Our Values (Intranet page)

Appendix 1:Guidance Document: Gender Based Language

Appendix 2 Guidance Document: Providing Care

Appendix 3 Guidance Document: Transgender staff

8. DUTIES (ROLES & RESPONSIBILITIES):

8.1 Chief Executive / Trust Board Responsibilities:

The Chief Executive and Trust Board jointly have overall responsibility for the strategic and operational management of the Trust, including ensuring that Trust policies comply with all legal, statutory and good practice requirements.

8.2 Executive Director Responsibilities: Director of Workforce & OD

All policies have a designated Executive Director and it is their responsibility to be involved in the development and sign off of the policies, this should ensure that Trust policies meet statutory legislation and guidance where appropriate. They must ensure the policies are kept up to date by the relevant author and approved at the appropriate committee.

8.3 Line Managers Responsibilities:

Line Managers are responsible for ensuring effective and consistent application of this policy. The manager must attempt to deal with issues sensitively and without undue delay.

8.4 Staff Responsibilities:

All staff should be aware of this Policy and must follow the guidance to support their understanding of gender identity and inclusion.

8.5 Quality and Safety Committee Responsibilities

The committee will review policy monitoring information as detailed in section 5.

8.6 Joint Partnership Forum Responsibilities:

The Chair of the approving committee (Joint Partnership Forum) will ensure the policy approval is documented in the final section of the Checklist for Policy Changes. The committee will agree the approval of the final draft of the policy.

9. ABBREVIATIONS / DEFINITION OF TERMS USED

ABBREVIATION	DEFINITION
CPFT	Cumbria Partnership NHS Foundation Trust
EDI	Equality, Diversity and Inclusion
GDPR	General Data Protection Regulation
GRC	Gender Recognition Certificate
NCUH	North Cumbria University Hospitals
PSED	Public Sector Equality Duty
UNCRC	The United Nations Convention on the Rights of the Child

APPENDIX 1 - GUIDANCE – GENDER BASED LANGUAGE

TERM USED	DEFINITION
Cisgender	This is a commonly used term which refers to a person whose gender identity is in line with the sex they were assigned at birth. Non-transgender is a term also used by some people.
Gender	The social and cultural identification and perception of masculinity and femininity as opposed to physical/biological sex. Social gender is the gender in which an individual lives their day to day life. This is likely to affect the name they choose to be called and the way they dress.
Gender dysphoria	This is used to describe when a person experiences discomfort or distress because there is a mismatch between their sex assigned at birth and their gender identity. This is also the clinical diagnosis for someone who doesn't feel comfortable with the gender they were assigned at birth. Many transgender people reject the idea that gender dysphoria is a pre-requisite for being transgender.
Gender expression	This refers to the ways in which people manifest their gender. For example through what they wear, how they speak and how they act.
Gender identity	Gender identity describes the psychological identification of oneself as a masculine / feminine/ both/ neither. Gender identity is separate from sexual orientation and for transgender people; their own sense of who they are does not match the sex that society assigns to them when they are born.
Gender questioning	This refers to children and young person's questioning their sexuality or gender, along with the diverse areas related to it. It is a stage where exploration, learning and experimenting often occurs. While some children and young people have little to no issue in self-identifying, some encounter a great deal of confusion and uncertainty. They may have issues in understanding their sexuality, sexual orientation, gender identity, or whether or not they fit into any preconceived social normative labels.
Gender reassignment	This is another way of describing a person's transition. For some individuals, undergoing gender reassignment involves

TERM USED	DEFINITION
	<p>medical intervention, but this is not required for a person to identify as transgender. It can also mean changing names, pronouns, dressing differently and living in your self-identified gender. Gender reassignment is a characteristic that is protected in the Equality Act 2010.</p>
Gender Recognition Certificate (GRC)	<p>This enables transgender people to be legally recognised in their self-identified gender and to be issued with a new birth certificate. Not all transgender people will or want to apply for a GRC and you have to be over 18. An employer or service provider does not need to see a GRC in order to recognise an employee's or persons gender.</p> <p>Sex Reassignment Therapy can consist of secondary sex characters, sex reassignment permanent hair removal for Transgender women.</p> <p>Hormone Replacement Therapy (HRT) is used to modify surgery to alter primary sex characteristics, and in addition to undergoing medical procedures, transgender people who go through sex reassignment therapy usually change their social gender roles, legal names and legal sex designation.</p> <p>Generally speaking, physicians who perform sex-reassignment surgery require the patient to live as the members of their target gender in all ways possible for at least a year ("cross-live"), prior to the start of surgery, in order to assure that they can psychologically function in that life- role. This period is sometimes called the Real Life Experience and is part of a number of requirements. Other frequent requirements are regular psychological counselling and letters of recommendation for this surgery.</p>
Gender variant	<p>This is a term used for someone who does not conform to the gender roles and behaviours assigned to them at birth.</p>
Intersex	<p>There are a number of intersex conditions (recently renamed Disorders of Sex Development) which may lead the individuals born with them to experience some inconsistency between their gender identity, and the gender role assigned at birth. Inconsistencies in development may be associated with atypical sex, atypical genital appearance at birth.</p>
Natal sex	<p>See Sex assigned at Birth definition below.</p>
Non-binary identity	<p>Some people may experience a gender identity which is both masculine and feminine, different mixtures of both at different times, or neither. Often gender is seen as a binary, (meaning two poles, man and woman) but there are some individuals who don't self-define as either of these.</p> <p>Pronouns non-binary people may use include they / them / their. People will be familiar using these words to refer to groups, but</p>

TERM USED	DEFINITION
	they can be used to refer to a singular person instead of he/him/his and she/her/ hers
Sex	Sex refers to the male/female/intersex biological development. In an infant, the sex is judged entirely to a person on the basis of primary sex characteristics (genitalia) and reproductive functions at birth.
Sex assigned at Birth	This refers to the sex an individual is assigned at birth and appears on their birth certificate, however, not necessarily aligned to the gender they identify as. Natal sex is another term but less favourably used.
Sexual orientation	This is a person's emotional, romantic and/or sexual attraction to another person.
Transgender and trans people	<p>These terms are generally accepted as an umbrella term for all people who cross gender boundaries. It describes people whose gender is not the same as or does not sit comfortably with, the sex they were assigned at birth.</p> <p>Transgender people may describe themselves using one or more of a wide variety of terms, including (but not limited to) transgender, non-binary and 'gender queer'. Do NOT use the term 'a transgender' as a noun: instead use 'a transgender person'.</p>
Transgender man	This is a term used to describe someone who is assigned female at birth but identifies as a man. This may be shortened to transgender man, or 'FTM', an abbreviation for female-to-male.
Transgender woman	This is a term used to describe someone who is assigned male at birth but identifies as a woman. This may be shortened to Transgender woman, or 'MTF', an abbreviation for male-to-female.
Transition	Transition is the term used to describe the point at which a permanent change of gender role is undertaken, in all spheres of life - in the family, at work, in leisure pursuits and in society generally.
Transsexual	In the past this was used as a more medical term (similarly to homosexual) to refer to someone who transitioned to live in the 'opposite' gender to the one assigned at birth. This term is still used by some although many people prefer the term transgender or trans.
Transitioning	This is a term used to describe the steps a transgender person may take to live in the gender they identify as. Each person's transition will involve different things. For some this involves medical intervention, such as hormone therapy and surgeries, but not all transgender people want, or are able, to have this.

TERM USED	DEFINITION
	A medical intervention is not a pre- requisite or a necessary step for transition. Transitioning also might involve things like telling friends and family, dressing differently and changing documents
Transphobia	A fear and dislike of transgender people, which can lead to hatred resulting in verbal or physical attacks and abuse.

APPENDIX 2 - GUIDANCE – PROVIDING CARE

Clinical responses at CPFT and NCUH should be patient centred, respectful and flexible towards all transgender and gender questioning people regardless of their gender identity, expression or roles. Whether they live continuously or temporarily in the gender role, one that is different to their sex defined at birth (natal sex).

There may on occasion be situations where staff, care providers and commissioners find that their duty to recognise and respond appropriately and sensitively to an individual's gender conflicts with other responsibilities so these are the principles staff at CPFT and NCUH need to consider.

Staff should, where possible, ask sensitively and discreetly where the patient would be most comfortably accommodated and not make assumptions based on gender expression or physiology.

All decisions should be proportionate to achieving a safe nursing environment for the individual, however, confidentiality and sensitivity is essential. Discussions related to accommodating a patient and meeting their needs should be undertaken only with relevant persons and with the consent of the transgender or gender questioning person.

Be aware that for children and young patients, that the views of parents / guardians / carers may not be the same as the transgender child or young person's wishes. In this case it is important that open and sensitive discussions take place with the parents / guardians / carers and other relevant people and that the transgender child or young person's view is strongly taken into account with Fraser Competence¹ being considered.

Views of family members may not accord with the transgender or gender questioning person's wishes, in which case, the transgender or gender questioning person's view should take priority.

On admission, patients should be accommodated according to their wishes, in the case of binary identified trans people, this is commonly the ward appropriate to their gender identity. In the case of non-binary people a choice will have to be made by them as to which they feel is more appropriate. Transgender people may request a ward which is in line with their sex assigned at birth rather than their gender identity this decision should be respected. However, if it is not possible to ask the patient which gendered ward they wish to be placed because they are unconscious or incapacitated then a decision based on what evidence is available including gender expression, personal ID, previous hospital attendance and such like must be made on a case by case basis. Once the individual can make a decision they should be moved if on a ward deemed unsuitable to them.

¹Fraser Competence is a term used to describe a child under the age of 16, who is considered to be of a sufficient age and understanding to become competent to receive advice without parental knowledge or consent

The guidance may only be varied under special circumstances where, for instance, the treatment is biologically specific and necessitates a transgender person being placed in an otherwise opposite gender ward. For example trans women have a prostate whereas non-trans women don't. This means that there may be rare occasions where specific treatment for a trans woman may be provided on a male ward, however, this would only take place in exceptional circumstances after all other reasonable adjustments have taken place. .

Remember this approach may only be varied under special circumstances where, for instance, the treatment requires close nursing observation and there are no other bed moves available to facilitate nursing in the gender preferred bay.

If staff are concerned about possible risks and vulnerabilities that could arise they should undertake a dynamic risk assessment and this must be recorded in the ward note. This should be assessed objectively in light of the cause of that concern and after consideration it may be appropriate to take additional action to manage risks such as enhanced observation or even moving a transgender service user. This decision should not solely be made on the basis they are transgender person.

A transgender person should not be moved on the request of other patients. The other patients should be given the option of being accommodated elsewhere if such options exist.

Disclosure

Never disclose a person's transgender status or gender identity history to anyone who does not explicitly need the information for care as with any personal information or medical history, information must be treated confidentiality. If disclosure is relevant to care, consent must be obtained wherever reasonably possible.

Using toilets and showers

Transgender patients may use toilets and showers consistent with their gender identity. In some instances a transgender person may elect to not do so if they feel safer using those of their assigned at birth sex.

General care principles

Admission paperwork

Consider using initials and surname on bed boards rather than first names but always ask the patient what they prefer.

If you are unsure of a patient's gender, you should, as with any other patient, ask what they prefer to be called. If their name of choice is gender neutral, you could ask discreetly sensitively. Their gender should be recorded as their self-defined gender on the admission paperwork.

Pre / post-operative care

With the permission of the patient, provide a brief to theatre staff and consider introducing the patient to the nursing and theatre staff. Discuss the recovery process options with the patient in terms of ward and level of post-surgery care and also ensure the patient walks or is transported to theatre in their desired clothes as long as the clothing is appropriate for theatre.

Try to allocate a specific nurse to post-operative care in order to maintain privacy. Extra care may be required to ensure that privacy and dignity as a trans person is appropriately ensured post-operatively, or while unconscious for any reason. For example, transgender women who may usually wear a wig, may be 'misgendered' as a result, and transgender men whose facial appearance is clearly male, may still have female genital appearance, therefore extra care may be needed to ensure their dignity and privacy is protected.

Dignity on the ward

The presence of a transgender person in your ward or department is not a training opportunity for other staff; their identity is not a condition, it is a part of their identity, just like someone who has different coloured hair. If the transgender person has a rare or unusual finding that is of interest ask their permission as you would with non-transgender patients as a necessary first step before inviting in a colleague or trainee to observe.

Some transgender patients wish to maintain control over who sees them unclothed. Therefore, when patients are observed without first asking their permission, it can quickly feel like an invasion of privacy and creates a barrier to respectful, competent health care.

Safeguarding

Safeguarding patients is a priority; transphobic abuse from anyone is hate crime and must be reported as an incident. Any staff member that is emitting abuse of any form will be subject to the disciplinary procedure.

Children and young people realising at a young age that they are 'different' from those around them can be isolating, frightening and difficult. Depression, self-harm and suicidal ideation are more predominant in transgender / questioning people, staff should bear this in mind particularly with regard to safeguarding transgender children and young people

There are gender specific bays on the Children's ward and transgender children and young people should be nursed in their gender preferred bay. Decisions should continue to be proportionate to achieving a safe nursing environment for the individual. It is not unusual for the gender specific bays to accommodate males and females but if achieving a safe nursing environment results in accommodating a transgender child or young person in their assigned sex bay, remember that confidentiality and sensitivity is essential.

Investigations

No investigation as to the genital configuration of the person should be undertaken unless this is specifically necessary in order to carry out treatment.

Other Areas / Clinics

Provide transgender people with opportunities to discuss any concerns or specific arrangements to meet their needs. Identify a private area if possible for the patient to register their details, rather than in front of other people. Ensure transgender people are given privacy when discussing their care needs.

General tips

- Treat transgender individuals with dignity and respect as you would with any person. You can show respect by being relaxed and courteous, avoiding negative facial reactions, and by speaking to transgender people as you would any other patient or service user.
- Don't make assumptions about people by their appearance.
- It is inappropriate to ask transgender patients about their genitals if it is unrelated to their care.
- A person's genital status— whether one has had any lower surgery or not— does not determine that person's gender identity for the purposes of social behaviour, service provision, or legal status.
- Remember that transgender people might be very sensitive about that area of their body. For example, transgender women may not want to use a bottle and transgender men might not want to use a slipper pan.

APPENDIX 3 - GUIDANCE – TRANSGENDER STAFF

Transgender and gender diversity inclusion leads to improved attraction, retention, innovation and collaboration. All staff should be involved in promoting gender diversity inclusion and this section outlines the principles for those staff contemplating transition living as a transgender person while working at CPFT and NCUH.

Notification of Transition

CPFT and NCUH staff who wish to disclose their gender identity which is different to their assigned at birth sex are encouraged to contact their Line Manager or Workforce Business Partner to share their intentions, needs and concerns. This is to enable the Trust to provide the necessary support for the transgender employee, which is respectful to all parties involved or impacted. Support would also be available for colleagues of that individual and this would be agreed by all parties involved. Best practice advises that a Memorandum of Understanding (MOU) is drawn up with the staff member and Line Manager supported by the HR Business Partner to ensure the workplace is managed effectively from an employment perspective protecting the individual while meeting the needs of the service.

Sickness and Absence

Time off may be required for appointments, treatment and surgery over a prolonged period. The Trust's Attendance Management at Work Policy will support staff and employees to manage absences appropriately and consider reasonable support in line with the Equality Act 2010.

Confidentiality

The transgender status of an employee is considered confidential and should only be disclosed on a need-to-know basis, and only with the consent of the employee.

Working Relationships

In the event a staff member refuses to work with a transgender member of staff, or issues of this nature arise, this should be raised immediately with the relevant Line Manager. The Trusts have a duty of care toward all employees and discrimination will not be tolerated. The Equality, Diversity and Inclusion Team or the HR team should be contacted for further support and advice.

Dress Code

Staff at both CPFT and NCUH are permitted to dress consistently with their gender identity or gender expression but all staff are required to comply with CPFT and NCUH Policy for Dress and Appearance. Staff who are involved in a "direct patient care activity" (DoH 2010) **must** be "Bare Below the Elbows".

Toilets

Transgender people / staff have equal rights to access single sex toilets or showers as any other man or woman. Where possible toilets should be reassigned as 'gender neutral', however, if this is not possible non-binary people will make a decision as to which facility they use.

Pronoun and Name Changes

In everyday written and oral communication, the transgender employee's new or self-defined name and pronoun should be used when the employee has given the Trust the written permission to do so.

Legal documents: employee records and work-related documents should be retained under the persons legal name (as reflected on identification documents verified at the start of employment) unless and until they make a legal change.

Phone directory and email address: while transitioning, the person can change their name in the phone directory and email address to reflect their new name.

ID Badge

While transitioning, the person should consult the Workforce Team for guidance on changing the name on their ID badge.

DOCUMENT CONTROL

Equality Impact Assessment Date	15/5/18
Sub-Committee & Approval Date	Joint Partnership Forum 01/08/2018

History of previous published versions of this document: New policy

Trust	Version	Ratified Date	Review Date	Date Published	Disposal Date
n/a	n/a	n/a	n/a	n/a	n/a

Statement of changes made from previous version: New policy

Version	Date	Section & Description of change
0.1	24/5/18	New Joint Policy

List of Stakeholders who have reviewed the document

Name	Job Title	Date
CPFT HR/BP Team	Team	April 2018
NCUH HR Team	Team	April 2018
CPFT PET	Team	April 2018
NCUH PALS	Team	April 2018
Matt Philips	Clinical Director-Sexual Health Team	April 2018
Sexual Health Team	Team	April 2018
Rachael Ridley	Staff Nurse and EDI Representative	April 2018
Debbie Wood	Trainee Consultant Psychologist and EDI Representative	April 2018
Workforce Futures and Inclusion Team	Team	Ongoing
EDI Representatives (joint)	Team of 60	April 2018
Elizabeth Walsh	UNISON	April 2018
Care Groups via HR Teams (CPFT)	Teams	April 2018
Divisions via HR (NCUH)	Teams	April 2018
Tara Stone	Director – BeTrans	March 2018
Yvonne Salkeld	Information Governance	August 2018