



East Cheshire
NHS Trust

TRANSGENDER SUPPORT POLICY FOR STAFF AND SERVICE USERS

Policy Title:			
Executive Summary:	<p>The aim of this policy is to communicate East Cheshire Trust's commitment to the promotion of equality.</p> <p>The policy seeks to ensure that the provision for transgender people is responsive to individual need; is prejudice free and challenges the discrimination individuals may experience. The policy will provide a framework for managers and clinical staff to support staff and service users who identify with a gender other than that assigned at birth.</p>		
Supersedes:	Transgender Support Policy v2.0 2014-2017		
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1. Introduction

East Cheshire NHS Trust is committed to equality for all communities and to providing services which are accessible, appropriate and which recognise the diversity of people, their needs and choices.

To deliver a patient led service the trust must ensure that services and care delivery recognise the needs of each individual service user. The trust recognises that transgender (trans) service users and staff may experience discrimination. East Cheshire NHS Trust is clear that it does not tolerate discrimination directly or indirectly against any person.

2. Purpose

- 2.1** This policy applies to all working in the trust, in whatever capacity. A failure to follow the requirements of the policy may result in investigation and management action being taken as considered appropriate.
- 2.2** This may include formal action in line with the trust's disciplinary or capability procedures for trust employees; and other action in relation to other workers, which may result in the termination of an assignment, placement, secondment or honorary arrangement.
- 2.3** If it is alleged that a service user is subject to discrimination this should be reported to the person in charge of the service area and an incident report completed on the Datix risk management system. Should the subject of the allegation be the person in charge of the service area, the issue should be escalated to their line manager.

3.0 Responsibilities

- 3.1 The role of the Trust Board**
The Board has a responsibility to develop a culture and climate in which employees can excel at work and maximise their potential regardless of their transgender status and where service users receive a fair and equal service.
- 3.2 The role of the Director of Corporate Affairs and Governance**
To oversee the introduction, operation and monitoring of the policy.
- 3.3 The role of the Deputy Director of Corporate Affairs and Governance**
The Deputy Director of Corporate Affairs and Governance will receive the quarterly report on equality and human rights report and will highlight any issues arising from the KPIs within this policy to the trust Safety, Quality and Standards Committee.
- 3.4 The role of Associate Directors**
It is the responsibility of Associate Directors to ensure that relevant departmental managers receive a copy of this policy for onward communications to staff.
- 3.5 The role of Matrons and Departmental Managers**
Matrons and departmental managers have the responsibility to cascade this information to the staff they manage. Line managers must ensure that departmental systems are in place to enable all staff including agency staff, contractors and volunteers to have

access to relevant policies, procedures, guidelines and protocols and to remain up to date with the content of new and revised policies, procedures, guidelines and protocols.

3.6 The role of senior sisters/supervisors

Managers and supervisors are responsible for ensuring that harassment and bullying does not occur in their work area. This includes acting as a role model in terms of appropriate behaviour.

3.7 The role of Equality and Diversity Leads

The Equality and Diversity Leads are responsible for providing appropriate advice and guidance to all staff on the use of the policy and its application generally and specifically (i.e. individual cases). The Workforce Lead will provide an advisory role to managers and staff in respect of the policy and appropriate solutions. The Equality & Patient Experience Manager will provide advice to staff and service users in the implementation of this policy and ensure that the policy remains current.

3.8 The role of Individual Staff

Every employee has a personal responsibility for their own behaviour and must treat their colleagues, patients and visitors with respect and fairness regardless of their gender, sexual orientation, race, age, disability, religion or belief, gender reassignment status, marital or civil partnership status or pregnancy and maternity.

All staff have a responsibility to ensure that they are aware of trust documents which are relevant to their area of work and that they act in accordance with these at all times.

4.0 Processes and Procedures

4. DEFINITIONS

4.1 Transgender Person

This is a person who has a gender identity or gender expression that differs from that which is expected based on their birth sex.

4.2 Transsexual Person

Someone who experiences a gender identity that is inconsistent with, or not culturally associated with, their assigned sex, and desire to permanently transition to the gender with which they identify, usually seeking medical assistance (including hormone replacement therapy and other sex reassignment therapies) to help them align their body with their identified sex or gender. This term is considered by some to be derogatory and there is a larger preference to be called a trans man or a trans woman.

4.3 Trans

The expression trans is an inclusive term for a person who is transgender or transsexual. The term *trans man* refers to a man who has transitioned from a woman to a man, and *trans woman* refers to a woman who has transitioned from a man to a woman.

For the purpose of this document the term trans and trans people will be used as it is a more encompassing term and generally accepted by the trans community.

4.4 Gender Identity and Gender Expression

Gender Identity describes the gender a person identifies with, eg. man, woman, non-binary. This is not necessarily the same as the gender we assume someone will be, based on the sex they were assigned at birth. Gender identity is the label someone gives themselves based on how they feel they fit in with the wider world.

Gender expression describes someone's feelings or behaviour eg. If they are feminine or masculine. This might apply to physical attributes such as build or clothes rather than their gender identity which is a label that a person gives themselves.

4.5 Gender Dysphoria

A medical diagnosis of a consistent and overwhelming desire to live in the opposite gender to that assigned at birth, which causes distress.

4.6 Gender Reassignment

The process of transitioning from the gender assigned at birth to the gender the person identifies with. This may involve medical and surgical procedures. Many people simply call this process **transition**.

In addition to undergoing medical procedures, trans people who go through sex reassignment therapy usually change their social gender roles, legal names and legal sex designation. Transition describes 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. Some people make this change gradually, whereas others may make changes more quickly.

4.7 Legal Sex

In the past in the UK, the legal sex of someone was defined by their birth certificate and could not be changed. The Gender Recognition Act 2004 means people can now apply to gain recognition of their change of gender for all legal purposes.

4.8 Transphobia

A fear and dislike of trans people, which can lead to hatred resulting in verbal or physical attacks and abuse.

4.9 Sexual Orientation

Sexual orientation is a separate issue from gender identity. Trans people may be gay, lesbian, bisexual, heterosexual or asexual. Their sexual relationships may remain the same through the transition process, or they may change.

5 LEGISLATION

5.1 Equality Act 2010

The Equality Act came into force in October 2010 – simplifying and harmonising protection offered to people from discrimination, harassment and victimisation (public sector organisations also have the duty to promote equality and good relations between all protected characteristics.)

Protection from discrimination in the workplace and in the provision of goods, facilities and services is offered to people who intend to undergo, are undergoing or have undergone a process – or part of a process - to reassign that person's gender by changing psychological or other attributes of gender. The process described in the Equality Act is often known as 'transition.'

There is no requirement for the person to be under medical supervision – as under previous legislation – and it covers those who associate with trans people and those who are perceived to be trans.

5.2 Sex Discrimination Act 1975

Under this act it is unlawful for employers to discriminate on grounds of sex, marriage, pregnancy and maternity leave or because someone intends to undergo, is undergoing or has undergone, gender reassignment.

The Sex Discrimination (Gender Reassignment) Regulations 1999 extended the Sex Discrimination Act 1975 to prohibit discrimination on the grounds of gender reassignment in both employment and vocational training. The Regulations 1999 were revoked in October 2010. However, the regulations can still be relied on where the discriminatory act complained of (such as a case of discrimination because of gender reassignment) occurred wholly before 1 October 2010.

5.3 The Gender Recognition Act 2004

The Gender Recognition Act 2004 gives legal recognition (to those seeking resolution to their gender variance issues) in their acquired gender. There are a number of criteria which the trans person has to satisfy in order for the Gender Recognition Panel (a judicial body that comprises of lawyers and doctors) to consider their case:

- have or have had gender dysphoria, and
- have lived in the acquired gender for two years prior to the application, and
- intend to live permanently in the acquired gender.

Following a successful application, a trans person will acquire the rights and responsibilities of their acquired gender from the date of recognition for 'all purposes'. A Gender Recognition Certificate (GRC) will be issued, the birth certificate is automatically replaced, for those whose birth was in the UK. Under these circumstances there are increased privacy requirements for documentation/records that reveal a previous gender status, and any person who has learned of this in their 'official capacity' and relays this information without prior consent/permission from the individual concerned will be committing a criminal act which could be liable to prosecution and a substantial fine. This applies to areas concerning workforce and service delivery.

The lack of a GRC must not be used to disadvantage a trans person. Asking to see a GRC is nearly always inappropriate; it may be regarded as harassment, and negates one of its central purposes, that is, to provide privacy. Nor should a birth certificate be required. Identification of patients and staff can usually be provided by passports or driving licences.

A GRC is not needed in order to change one's name, pronouns, or gender of presentation at work/or accessing a public service. Trans people will have spent an extended period of time living in their affirmed gender before being granted their GRC. Transitioning and continuing to work in their new gender is, for many trans people, an essential part of their transition process.

5.4 Human Rights Act 1998

The Human Rights Act 1998 gives further legal effect in the UK to the fundamental rights and freedoms contained in the European Convention on Human Rights. These rights not only impact matters of life and death, they also affect the rights you have in your everyday life: what you can say and do, your beliefs, your right to a fair trial and other similar basic entitlements.

Most rights have limits to ensure that they do not unfairly damage other people's rights. However, certain rights – such as the right not to be tortured – can never be limited by a court or anybody else.

5.5 Genuine Occupational Requirement (GOR)

Following legal recognition of an individual, the entire body of employment law must be interpreted on the basis that trans people are regarded for all purposes as a member of the acquired gender. If the single sex GOR applies to a post and the job holder changes gender then it is reasonable for the trust to reconsider the continuation of the job holder within the post. The trust must treat the individual reasonably in all circumstances.

5.6 Data Protection Act 1998

Under the Data Protection Act, a person's gender identity and issues relating to gender reassignment would constitute 'sensitive personal data' for the purposes of the legislation. It can only be processed for certain specified reasons set out in the Act.

5.7 Sharing Personal Information

Under Section 22 of the Gender Recognition Act 2004 it is illegal for staff to share information regarding someone's trans status. The Gender Recognition Act states that 'It is an offence for a person who has acquired protected information in an official capacity to disclose the information to any other person unless:

- There is specific agreement to do so by the trans person.
- If it is necessary for professionals to know someone's trans status then it is recommended that the trans person is asked to provide permission in writing.
- The Secretary of State may by order make provision prescribing circumstances in which the disclosure of protected information is not to constitute an offence under this section.

(For clarity on this issue see www.opsi.gov.uk Section 22 of the Gender Recognition Act 2004)

6. THE POLICY - EMPLOYMENT

6.1 Employment

Staff will be treated in their acquired gender for all purposes of daily living from the point they commence living and working in their new gender role.

All employees must observe the privacy of trans people afforded by the Gender Recognition Act. Breaches of confidentiality will be treated in accordance with the trust's Disciplinary Procedure.

6.2 Recruitment and Selection

There is no barrier to a person who identifies as trans from applying for employment within East Cheshire NHS Trust. All those involved in the recruitment and selection process have access to training to ensure that they are aware of their responsibilities to select fairly and without prejudice.

6.3 Confidentiality within the recruitment and selection process

Applicants do not have to disclose their transgender status during the recruitment and selection process including at interview, or as any condition of employment.

If applicants choose to disclose their status this must not be used as a reason for not offering the person employment with the trust and also non-disclosure or subsequent disclosure are not grounds for dismissal.

6.4 Records and Information Sharing

All personnel records must be updated at the start of the transition process. At this point, the member of staff will be able to apply for a driving licence and passport in their new acquired gender.

A new personnel file will be created to ensure confidentiality. It will be necessary to retain records relating to a member of staff's identity at birth prior to obtaining a full GRC, however, once the member of staff has obtained this, such records must be replaced with the new details. The old personnel file will not be destroyed but access to this will be restricted to the Director of Human Resources.

The line manager should also ensure that all information held in telephone directories, email address and employment details reflect the acquired gender of the person.

If giving a reference, the reference should be in the name which will be used in the new job and must not disclose a former name. It may sometimes be necessary for a trans person to disclose a previous identity in order for references from past employers to be obtained. In these cases, strict confidentiality and respect for dignity should be applied.

Those staff who are professionally registered are advised to contact their professional bodies to find out whether there are any specific requirements in terms of name changes etc. Where the trust has to keep evidence of professional status or qualifications, it should be discussed with the member of staff how this information will be retained so as not to compromise or breach disclosure of protected information. In some instances, certificates can be re-issued with the new chosen name of the trans person.

A person who has changed their gender role and is living in their acquired gender role does not have to be in possession of a GRC to be afforded equal treatment to a person who is in possession of a GRC.

6.5 Disclosure & Barring Service (DBS) (formerly Criminal Records Bureau) Checks

Staff who work in the NHS are required to have a DBS check. Part of this process involves a strict requirement for applicants to state all previous names and aliases. DBS checks however should not be a problem for trans people. The DBS has a confidential checking process for trans applicants who do not wish to reveal details of their previous identity to the person who asked them to complete an application form for DBS disclosure. Should this be the case the applicant must follow the process below:

The applicant may wish to contact DBS customer services to discuss this matter in confidence.

- Trans applicants should contact DBS confidential checking service on 0151 676 1452 or email sensitive@dbs.gsi.gov.uk prior to completing the disclosure. They can clarify anything they are not sure about, ensure that the DBS know they will be using the confidential checking process and confirm the current process.
- The trans applicant should complete the electronic form presented by their employer in the normal way, except that they need not complete details (or supply forms of evidence) that would expose their gender history to their employer.
- If they wish to leave out details that could "out" them then they should make a note of the application serial number.
- The applicant should then immediately contact the DBS in Liverpool on the number above and notify them of the application serial number.
- The special security section of the DBS in Liverpool then have the means to intercept the application that was forwarded by the employer. They will ask the applicant to supply the information needed to replace that which was omitted.

- This is then married up so that a rigorous criminal records check can be carried out in the same way as for any other applicant.
- Disclosures sent to the employee and employer will not reveal the applicant's former identity **unless** they have an offence or caution that has been recorded in that name in police records. In this case there is no way of avoiding the disclosure of that former identity to the employer.
- If the offence itself is not serious enough to preclude employment, reassurances should be given to the applicant /member of staff in this event.

6.6 Accommodating Gender Transition in the Workplace

East Cheshire NHS Trust is committed to supporting all its employees with regard to personal circumstances that may impact on work.

6.6.1 Procedure

Once an employee has decided to undergo gender reassignment it is essential that a support network is set up as soon as possible if the individual wants this. It is for the individual to decide whom to approach be it their line manager, Human Resources or an external person. Once this is agreed the Workforce Equality Lead will act as a contact for the individual concerned to answer any queries, action any requirements and act as an advisor. They will need to discuss with the individual how they wish to handle the transition. The following issues should be considered and agreed by both parties:

- a. The expected timescale for medical procedures (if to be undertaken) and any time off required for treatment.
- b. The expected point at which the change of name and personal details should occur.
- c. Whether the employee wishes to inform the line manager, colleagues and other staff and clients, or would prefer the appointed advisor / a third party to inform them instead.
- d. The timing and support of their decision as to when their individual gender specific dress will change and informing other staff if the person so wishes.
- e. The timing and support of their decision as to when they will change use of single sex toilets / changing facilities in their new gender.

6.6.2 Time off work

As per the trust's Attendance Management Policy, any absence from work for medical requirements would need to be covered by a medical certificate. Any additional leave for specialist appointments would be classed the same as other hospital / GP appointments in accordance with trust policy.

6.6.3 Support Mechanisms

The list below shows just some of the options available to individuals who wish to seek support within the organisation during a gender transition period. This encompasses identifying individual needs including additional diversity issues such as age, culture, disability, ethnicity, religion or sexual orientation.

- **Human Resources:** An appointed advisor from within the Human Resources Department may be identified at an early stage to offer assistance; put in place practical changes that need to be made to an individual's post or personal file; to encourage positive working relationships between the individual and wider team members if relevant. Any qualified human resources professional should have the necessary knowledge and awareness required to deal with such personal and sensitive issues.
- **Occupational Health:** A referral to occupational health may be considered by the individual, their manager or the human resources representative for additional help and advice concerning any counselling needs or advice regarding the medical

process of the transition. Managers may also need advice regarding the needs of the individual and on how to put in place changes that may need to be made within the team or work environment.

- **Equality and Diversity Lead:** Someone who has specialist knowledge of issues in relation to equality and human rights and who can be used as a resource.
- **Employee Assistance Programme:** The trust works with an established Employee Assistance Programme (EAP) provider, who provide a telephone counselling service and guidance across a range of health and wellbeing topics. Access to the helpline is available 24 hours a day, 365 days a year ensuring availability of service at the point of optimum need. Access is also available for immediate family members, who reside at the same address as the employee. The service offers telephone-based counselling as standard; this may lead to face-to-face counselling although their experience is that, following triage, telephone-based counselling meets most people's needs. The service is facilitated by a British Association of Counselling and Psychotherapy (BACP) accredited provider in the UK and therefore acts under the highest standards of confidentiality and ethics. The service can be accessed on 0800 107 6147 –quoting 'East Cheshire NHS Trust'.

6.7 Bullying and Harassment of Trans Staff

East Cheshire NHS Trust is committed to creating a working environment where every employee is treated with dignity and respect and where each person's individuality and sense of self-worth is maintained. Any harassment or bullying behaviour at work, whether by staff or service users, is not acceptable and will not be permitted or condoned by the trust.

Any form of bullying, harassment or inappropriate behaviour which causes offence, whether intentional or not, will be treated very seriously. Staff are encouraged not to tolerate bullying or harassment at work and will be supported by the trust in raising complaints under the harassment policy.

The trust is committed to providing training to all staff on equality and human rights in order to provide positive assistance in the implementation of the Equality & Human Rights Policy. As a minimum, all staff are expected to complete Statutory and Mandatory training, which includes a module covering equality legislation, protected characteristics, human rights, dignity and dealing with unacceptable behaviour.

7 THE POLICY – SERVICE PROVISION

7.1 Providing trans inclusive services

Trans people (ie. individuals who have proposed, commenced or completed reassignment of gender) have legal protection against discrimination. In addition, good practice requires that clinical responses be patient-centered, respectful and flexible towards all trans people who live **continuously or temporarily** in the gender role that is opposite to their natal sex.

Living with gender variance can be extremely difficult, stressful and emotional. The Engendered Penalties: Transgender and Transsexual People's Experiences of Inequality and Discrimination Report (2007), highlights that 34% of trans people surveyed have attempted suicide and 14% have attempted it more than once.) Trans people who are able and feel empowered to seek medical intervention will not only have to deal with hormonal and physiological changes, but deep psychological issues as well, such as body image, self-esteem and potentially sexual orientation.

Where a trans person is admitted to inpatient services, protecting their dignity, safety and privacy must be paramount. In such circumstances, decisions such as ward/room allocation should be made in conjunction with the service user themselves and in accordance with their preferences.

7.2 Single Sex Facilities

Those who have undergone full-time transition should **always** be accommodated according to their gender presentation. Different genital or breast sex appearance is **not** a bar to this, since sufficient privacy can usually be ensured through the use of curtains or by accommodation in a single side room adjacent to a sex-appropriate ward. This approach may only be varied under special circumstances where, for instance, the treatment is sex-specific and necessitates a trans person being placed in an otherwise opposite sex ward. Such departures should be proportionate to achieving a 'legitimate aim', for instance, a safe nursing environment. This may arise, for instance, when a trans man is having a hysterectomy in a hospital or ward designated specifically for women, and no side room is available. The situation should be discussed with the patient and a joint decision made as to how to resolve it, which may include rescheduling the operation if appropriate.

In addition to the usual safeguards outlined in relation to all other patients, it is important to take into account that immediately post-operatively, or while unconscious for any reason, those trans women who usually wear wigs are unlikely to be wearing them and so may be 'read' incorrectly as men. Extra care is therefore required so that their privacy and dignity as women is appropriately ensured.

Many trans patients who are on long term hormone therapy may be required to stop taking their medication for many weeks prior to any elective surgical procedure. There is the potential for this to have an impact on their outward appearance and should not disadvantage them from appropriate accommodation in a hospital ward. Trans men whose facial appearance is clearly male may still have female genital appearance, so extra care is needed to ensure their dignity and privacy as men.

Key points:

- Trans people should be accommodated according to their presentation (the way they dress, and the name and pronouns that they currently use)
- This presentation may not always accord with the physical sex appearance of the chest or genitalia
- Being accepted in their new gender does not depend upon their having a Gender Recognition Certificate (GRC) or legal name change
- Toilet and bathing facilities should be offered in line with the patient's gender presentation
- The views of the trans person should take precedence over those of family members where these are not the same.

7.3 Emergency admission

If on admission it is impossible to ask the patient's view as they are unconscious or incapacitated then in the first instance, inference should be drawn from presentation and mode of dress. No investigation as to the genital sex of the person should be undertaken unless this is specifically necessary in order to carry out treatment. In addition to the usual safeguards outlined in relation to other patients, it is important to take into account, that immediately post-operatively, or while unconscious for any reason, those trans

women who usually wear wigs are unlikely to be wearing them and so may be 'read' incorrectly as men. Extra care is therefore required so that their privacy and dignity as women is appropriately ensured.

Where admission/triage staff are unsure of a person's gender, they should, where possible, ask **discreetly** where the person would be most comfortably accommodated and then comply with the patient's preference immediately, or as soon as practicable. If patients are transferred to a ward, this should also be in accordance with their **continuous** gender presentation (unless the patient requests otherwise).

7.4 Considerations for gender variant children and young people

Gender variant children and young people should be accorded the same respect for their self-defined gender as are trans adults, regardless of their genital sex.

If there is no segregation, as is often the case with children, there may be no requirement to treat a young gender variant person any differently from other children and young people. Where segregation is deemed necessary, then it should be in accordance with the dress, preferred name and/or stated gender identity of the child or young person.

In some cases, parents or guardians may have a view that is not consistent with the child's view. If possible, the child's preference should prevail even if the child is not Gillick competent. *Gillick competence is a term used in [medical law](#) to decide whether a child (16 years or younger) is able to consent to his or her own medical treatment, without the need for parental permission or knowledge.* Where there is uncertainty re Gillick competency and parental wishes appear to be overriding the child's wishes then a safeguarding risk assessment should be undertaken and consultation with the Children's Safeguarding Lead.

More in-depth discussion and greater sensitivity may need to be extended to adolescents whose secondary sex characteristics have developed and whose view of their gender identity may have consolidated in contradiction to their sex appearance. It should be borne in mind that they are extremely likely to continue to experience a gender identity that is inconsistent with their natal sex appearance so their current gender identity should be fully supported in terms of their accommodation and use of toilet and bathing facilities. It should also be noted that, although rare, children may have conditions where genital appearance is not clearly male or female and therefore personal privacy may be a priority.

7.5 Records and Information Sharing

Medical record keeping for trans people can be a challenge for clinicians and staff. Transgender status forms part of an individual's history but is not necessarily and often is not relevant to why they are accessing services.

Once a trans person has changed their name all subsequent records must reflect this. This is not dependent on having a Gender Recognition Certificate. However most healthcare trusts prefer to have evidence of the permanency of the name change, by way of Deed Poll or Statutory Declaration before making official changes to patient records. Trans patients have a right to change their name and gender on their NHS records and could bring a civil claim against a trust which refused to accede to their request.

Patient presents at consultation/ED and their records reflect a change in gender – the treating consultant gives the following options:

1. Change name and gender on current episode but leave medical history in previous gender.

Consent recorded on record.

2. Create a summary record using the Nursing Assessment Document but explain that this in itself could identify the patient as their previous gender.

Consent recorded on record.

3. Create new record with reference that legacy records can only be accessed with the patient's consent. (See below guidance) Consent to this approach recorded on patient records. (This must also indicate the risk of medical decisions based on incomplete medical history.)

Records Management for transgender patients

- Upon receipt of a Gender Recognition Certificate or a request by the patient as in box 3 above, all correspondence should be sent to the Operational Manager for Outpatients.
- The Operational Manager for Outpatients will identify and collate all relevant records held by the trust in respect of the patient.
- The patient will then be invited to meet with relevant trust staff to seek the views of the patient as to how they wish protected information to be dealt with, and to advise the patient of the various options for managing their health records, along with the risks and benefits for the patient's health of each option.
- Such relevant trust staff should include a senior clinician, the Operational Manager for Outpatients and representation from trust Legal Services.

- The patient should be advised in general terms of the information within their health records, how it is used and the types of staff who access health records.
- The patient should be advised of the importance for treating clinicians of having a patient's full medical history and the reasons for this. If the patient agrees to having all their information included in current case notes, written consent is needed from the patient to enable protected information to be contained within the health record and to be disclosed for medical purposes.
- The patient will be asked if they wish their Gender Recognition Certificate to be filed within their case notes. If they do not, then this will be filed with the legacy notes and this decision will be documented in the legacy case notes.
- If the patient does not wish any previous name or details to be disclosed, a new set of case notes will be generated, with a new NHS Number and in this case no reference shall be made in the health record of previous gender or any gender reassignment. A new set of records will be generated for the patient under a new hospital number, which does not refer to the previous records by number or otherwise.
- A summary/chronology will be developed by the clinician to be available for health professionals. Any summary which includes reference to transgender status must be done with specific consent as each disclosure of this information could otherwise breach the Gender Recognition Act 2004 and may constitute a criminal offence.
- There is a risk that the summary/chronology may in itself identify the transgender status of the service user. Therefore the standard nursing assessment document will be used to create the summary record.
- After the meeting the patient will be sent a letter stating what occurred in the meeting, including whether the patient consented or not to the principle of protected information being contained within their health records and disclosed for medical purposes.
- Where a patient has undergone reassignment pre the 2004 Act the trust needs consent from the patient as to how they wish their case notes to be managed.
- Where the patient is unable or unwilling to attend a meeting or to provide consent, advice should be sought from Legal Services.
- Withdrawn legacy case notes must be held in secure storage by the Operational Manager for Outpatients who will only access with proven authorisation by the patient or clinician providing justification to access the records. The Operational Manager for Outpatients will also be responsible for any required archiving.
- Any Data Protection Act application for subject access to legacy case notes must be referred to the Operational Manager for Outpatients.
- Any application for disclosure received from the courts or police must be referred to the Operational Manager for Outpatients .
- All correspondence created by trust staff must not refer to previous identity or gender.
- Any referrals from GPs or healthcare professionals where trans status is identified must be vetted by the Team Manager of that service and if reference to the previous identity or gender is not directly relevant to the referral then it should be returned to the source of referral with an explanation that this constitutes a breach. (Appendix 1)
- Any breach must be recorded through Datix.
- Professionals need to adopt a practice of reference to present gender in case note entries. Identity comment should be avoided about transgender status unless this is a specific and immediate issue in treatment.
 - EG. X is a 47 year old transgender woman should just be recorded as X is a 47 year old woman. Notes should be written referring to transgender status only when this is a specific and immediate issue in treatment. EG. X is a 47 year old male to female transgender person who requests referral to a Gender Identity Clinic.
- Recording of trans status can only be made with **specific written consent** of the patient.
 - This is most likely to be relevant when recording e.g.
 - Past medical/mental health history

- Relationship/family issues
- Specific issues in relation to assessment and treatments for Gender Reassignment.
- The Operational Manager for Outpatients will be responsible for ensuring that agreed changes/archiving is also made to any therapy records or cancer care systems and any other services the patient has received treatment in.
- The Operational Manager for Outpatients will be responsible for ensuring that the agreed changes are also made to electronic systems including PAS, Medisec, Lab Centre, Pacs and Emis. This list is not exhaustive as new systems may be developed during the life of this policy.

NB: In all cases it should be assumed that the patient is in receipt of a Gender Recognition Certificate. Transgender people may stop the medical process at any time and still choose to remain in their preferred gender. In these circumstances they should be treated as having completed transition.

5.0 Monitoring Compliance with the Document

The Equality Leads will manage the overall responsibility for the monitoring of this policy. Assurance will be provided to the Trust Board by:

- Providing a quarterly equality and human rights report to the Safety, Quality and Standards sub-Committee
- 90% of staff completing statutory/mandatory equality and diversity training
- 6-monthly audit of complaints and incidents relating to trans issues.

6.0 References

The following can provide further information on the issues raised:

<http://www.gires.org.uk/terminology>

www.transgenderzone.com

www.acas.co.uk/index.aspx?articleid=2064

www.gender-matters.org.uk

www.equalityhumanrights.com

<http://www.lgbt->

healthinequalities.scot.nhs.uk/documents/7%20Good_Practice/8%20Guidance%20for%20LGBT%20employees/UNISON/TG_Bargaining07.pdf

- Unison Document: 'Bargaining for Transgender Workers' Rights' April 2007

Related Trust Policies & Procedures:

- Equality & Human Rights Policy
- Recruitment & Selection Policy & Procedure
- Harassment Policy – Maintaining Dignity at Work
- Grievance & Disputes Policy
- Disciplinary Policy
- Disciplinary Procedure for Medical & Dental Staff
- Work Life Balance Policy
- Learning & Development Policy
- Attendance Management Policy
- Raising Concerns at Work Policy.

Appendix 1



Date:

Department
Macclesfield District General
Hospital
Victoria Road
Macclesfield
Cheshire
SK10 3BL

Tel:
Fax. No.

Email:
www.eastcheshire.nhs.uk
Follow us @eastcheshirenhs

PRIVATE AND CONFIDENTIAL

Dear

Re:

Thank you for referring this patient to the trust.

I note that in the referral you have disclosed the patient's transgender status. As you may be aware, the Equality Act 2010 protects individuals from unauthorised disclosure of their gender when this is not directly relevant to the referral. Could you please confirm that the patient has consented to this and that we are not in breach of equality legislation.

If the patient has not agreed to the disclosure of their transgender status, could you either resubmit the referral omitting this information or ask the patient for consent to disclose their old NHS number and gender identity? It may help to explain to the patient that disclosure, with patient consent, would allow us to include vital information from their old hospital records into their new files, as these are under a different NHS Number. This would be done in a way which does not refer to their previous gender and would be undertaken by the Operational Manager for Outpatients so that staff are not aware of the patient's previous gender identity.

Yours sincerely

(Insert name and designation)