

# RESEARCH COUNCIL GUIDANCE ON SUPPORTING TRANSGENDER EMPLOYEES IN THE WORK PLACE

## Guidance

This document provides guidance supporting transgender employees in the workplace.

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# RESEARCH COUNCIL GUIDANCE ON SUPPORTING TRANSGENDER EMPLOYEES IN THE WORKPLACE

## Introduction

This guidance sets out the Research Council approach to supporting transgender employees in the workplace. Line managers or employees should seek further advice and support from the Research Council HR team.

The TU Side have been consulted about the contents of this guidance.

This guidance applies to all Research Council employees. This includes those employed on permanent or temporary contracts, visiting workers, students and those workers provided by a third party agency. The UK Shared Business Services Ltd (UK SBS) provides HR Services across the Research Councils. However some employees are deployed at establishments/facilities/ships that do not access services from UK SBS. In these cases references to the UK SBS or System (Employee Self Service) will not apply and employees should refer to their Research Council HR team for assistance.

For employees holding limited leave to remain and/or right to work limitations, implementation of this guidance may be subject to Home Office immigration rules. Before making decisions or taking any action relating to this guidance advice must be sought from your retained HR Team.

The Equality Act 2010 makes it unlawful to treat someone either unfavourably or less favourably than other people unfavourably in a range of areas including the provision of services and employment on grounds that they propose to start, have started, or have completed a process to change their gender. It is no longer necessary for the individual to have any medical diagnosis, be opting for surgery, or other medical intervention to be protected; it is sufficient if they decide to live as a member of the opposite sex.

The Gender Recognition Act 2004 (GRA) allows trans people (aged over 18) to change their legal gender. The Act gives trans people the right to obtain a new birth certificate, affording them recognition of their acquired gender in law for all purposes. The Act also includes important measures to protect privacy.

## 1. Principles

- 1.1 The Research Council is committed to ensuring that transgender people are treated with respect and dignity and that it does not discriminate unlawfully. This commitment

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is an important aspect of its overall duty to providing equal opportunities in employment.

- 1.2 This guidance should be read in conjunction with the Research Council Equality and Diversity Policy. Further advice can be sought from the Research Council HR team.
- 1.3 When referring to transgender issues employees should use appropriate terminology to reduce the risk of inappropriate language causing offence or distress (see Annex A).

### **2. Providing Support**

- 2.1 Successful support and management of an employee's reassignment depends on taking account of the employee's views on how to proceed. Confidential, sensitive and considered discussions between a manager, employee and Research Council HR point of contact can identify and resolve potential areas of difficulty and conflict before they arise. It is therefore important at an early stage to agree a plan. A template plan that can be adapted for use is included in the Government Equalities Office, Recruitment and Retention of Transgender Staff Guidance.

When agreeing a plan consideration should be given to the following:

- LM and employee to have an initial meeting – it is important to listen and agree a way forward.
- Review meetings to be scheduled at an agreed frequency and at key stages of the processes.
- Make a plan – every case is different/individual – expect the plan to be updated and developed, not fixed.
- Individuals may have a range of experiences or objectives – the Manager and HR point of contact need to establish these to meet the needs of the employee.
- Agree where the plan or any meetings notes will be kept and who has access.
- Agree to work in partnership to enable joint problem solving and to foster trust and openness.
- Agree the steps to be taken before and after transition.
- Discuss the anticipated point in time of change of name, personal details and social gender, and consider other elements (e.g. use of facilities, pensions and insurance).
- Discuss whether the employee wishes to stay in their current post or be considered for a different role, on a temporary or permanent basis
- Estimate and anticipate amount of time off that may be needed for medical appointments, treatments and surgical procedures and the handling of such absences (NB: the employee may change gender without medical intervention).
- Discuss timings and make arrangements for amendments to records and systems to take account of the change of personal details

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- Discuss levels of confidentiality – agree who, when and how colleagues should be informed – the employee should decide
- Research Council HR to confirm the HR point of contact and to supply contact details for the Employee Assistance Programme, internal and external support networks, and recommended professional organisations
- Research Council HR point of contact should, in consultation with the line manager, consider whether any awareness sessions on gender identity issues are needed.

### 3. Time off for Medical Appointments, Treatment and Surgery

- 3.1 Whilst there is no statutory right for an employee to take time off work the Research Council will support employees who are undergoing treatment and/or surgery. Time off needs to be included in the plan outlined in section 2.1.
- 3.2 The Research Councils should not subject an employee to any disadvantage for taking time off for gender reassignment, and they should not treat the employee less favourably than they would treat an employee who is taking time off for any other significant medical treatment.
- 3.3 To apply for time off, employees are required to give as much notice as they can and, wherever possible, should arrange appointments at the start or end of the working day. Managers have the right to ask for proof of attendance for medical appointments, as they do in all other circumstances. It is recognised that employees undergoing treatment may need to attend some longer medical appointments e.g. for an initial consultation. To cover appointments of this type employees will be granted paid time off for up to three full day appointments per rolling 12 month period. Any other full day appointments can be taken as annual leave, flexi leave or as unpaid leave.
- 3.4 In order to allow an individual to take time off during the transitioning process without it affecting their absence record, absences for gender re-assignment should be recorded on the system with an absence reason of other. These absences should not be counted towards a total sickness record for the purposes of determining whether an attendance review meeting is required; but these absences will be counted for occupational sick pay purposes. Gender re-assignment related sickness absence will not be used as a reason for disciplinary action or redundancy selection.
- 3.5 The line manager and employee should discuss in advance how much time off the employee is likely to need to undergo gender reassignment treatment. This will allow the line manager to plan for the absence and arrange cover for the employee if necessary.

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The length of time a person takes to complete his or her gender reassignment will depend on the employee's circumstances, including the type of medical treatment the employee is having. For example, the employee: may have hormone therapy for a number of years before having surgery; may need to have a number of operations; may decide not to have surgery; or may take breaks from their treatment. The period of time taken to complete gender reassignment will also depend on where the employee is having treatment, because waiting times for reconstruction surgery vary across the country, and the individual may need to travel some distance for treatment. Employers should note that some people transition without any medical intervention at all.

### **4. Toilets and Changing Facilities**

- 4.1 From the point that the individual declares that they are living and working in that gender an employee should be able to use the toilet and changing facilities appropriate to their acquired gender.

### **5. Return to Work**

- 5.1 An employee who is transitioning may wish to be redeployed on a temporary or permanent basis. Where possible, the Research Council should accommodate that wish.

In so doing, the Research Council will not put pressure on the individual to change jobs temporarily or make assumptions about their capability or wishes.

### **6. Informing Colleagues**

- 6.1 An employee who is transitioning and the line manager should agree what information needs to be conveyed to work colleagues and when. While the whole workforce may not need to know about the employee's transition, people who work closely with the employee will normally need to know to ensure that a good working relationship is maintained.
- 6.2 Some employees will wish to tell colleagues about their gender reassignment themselves, but others may find it less stressful if the line manager does so on their behalf, having agreed with the employee in advance what to say. The line manager should encourage the individual to say what is best for them. If the employee is not ready to tell anyone at the early stages, the Research Council will respect that.
- 6.3 Communications with the team will need to address practical issues, for example how people should address their colleague (including name and pronoun) and how to support them.

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## 7 Informing Clients/Customers

The need for this will vary depending on the employee's role - include the employee in considering how best to communicate the information. This may need to include a plan to deal with media interest.

## 8 Pensions and Insurance

When dealing with other Agencies, care should be taken to ensure information is only shared only as required with those responsible for records/policies.

## 9. Guidance Review

This guidance will be regularly reviewed to incorporate any legislation changes. The TU may request that guidance is reviewed.

## 10. Amendment History

Version	Date	Comments/Changes
V1.0	1 October 2017	
V2.0 (UKRI)	1 June 2018	<b>Additional paragraph added to Introduction confirming Guidance may be subject to Home Office Immigration Rules</b>

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## Annex A

### **Terminology**

Understanding the terminology relating to gender identity is the first step to creating an inclusive workplace for transgender people. The inappropriate use of language can cause offence and distress to employees and undermine the employer's efforts to support transgender men and women.

Trans men and women may have preferences regarding the language they use, and employers should respect their wishes.

Employers should recognise that many individuals who transition simply want to be described as a woman or a man, and regard being transsexual as part of their gender-identity history.

Terminology relating to transgender issues is evolving as society becomes more tolerant and individuals increasingly self-define, so employers should keep up to date with it. Acceptable terminology can be found on the Gender Identity Research and Education Society website.