



London Ambulance Service **NHS**
NHS Trust

Transgender Employment Policy

DOCUMENT PROFILE and CONTROL.

Purpose of the document: To set out a policy position and practical guidance concerning transgender applicants and staff.

Sponsor Department: Workforce Department

Author/Reviewer: Senior HR Manager. To be reviewed by May 2020

Document Status: Final

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31/3/17	1.4	Senior HR Manager	Further minor amendments
31/1/17	1.3	Management and staff review group/Senior HR Manager.	Updating of policy.
23/3/11	1.2	Senior HR Manager (South)	Amendments in line with Equality Act 2010 – paragraph 5.3.1 and 6.1.1.
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***Version Control Note:** All documents in development are indicated by minor versions i.e. 0.1; 0.2 etc. The first version of a document to be approved for release is given major version 1.0. Upon review the first version of a revised document is given the designation 1.1, the second 1.2 etc. until the revised version is approved, whereupon it becomes version 2.0. The system continues in numerical order each time a document is reviewed and approved.

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Links to Related documents or references providing additional information		
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1 Introduction

The term Transgender relates to people who have a gender identity, or gender expression, that differs from their sex at birth. Many will undergo the process of aligning their life and physical identity, and this is called transitioning. People can change their gender identity without any medical intervention and medical processes are not essential to transitioning.

The Trust is committed to ensuring that transgender applicants and employees are treated equally and are protected from discrimination.

Individuals may have preferences in terms of language used – this policy uses the umbrella term ‘transgender’ which includes non-binary.

Whilst this document provides advice, it cannot cover every situation and managers should liaise with the transgender applicant or employee and, as far as is reasonable, be guided by their needs.

Further guidance, including a glossary of terms and useful contacts, is included in ‘The recruitment and retention of transgender staff - Guidance for employers’ (Government Equalities Office Nov.15)

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/484855/The_recruitment_and_retention_of_transgender_staff_guidance_for_employers.pdf

2 Scope

The document covers all LAS employees as well as applicants to the Service.

3 Objectives

To provide guidance on supporting transgender applicants and employees.

4 Responsibilities

All managers and staff are responsible for adhering to this policy as well as the legal framework.

5 Legal

5.1 The Gender Recognition Act 2004

- 5.1.1 The Gender Recognition Act 2004 established a process whereby transgender people can amend their legal status from the gender into which they were born into one that they feel themselves to be. It enables people, for example, to change their birth certificate or to marry in their acquired gender.

5.1.2 The Act also made it an offence for a person who has received protected information regarding the transgender person, in an official capacity, to disclose this information to others.

5.2 Equality Act 2010

5.2.1 This Act identified gender reassignment as one of the nine 'protected characteristics' alongside age, disability, marriage and civil partnership, pregnancy and maternity, race and ethnicity, religion or belief, sex, sexual orientation and gender reassignment.

5.2.2 The legislation makes clear that it is not necessary for people to have any medical diagnosis or treatment to gain gender reassignment protection; it is a personal process of moving from one's birth gender to the preferred gender.

6 **Supporting staff and applicants**

6.1 Gender

6.1.1 Once a person identifies themselves as a particular gender then the Trust will also identify the individual as being of that gender

6.2 Recruitment

6.2.1 Interviews

6.2.1.1 It should be recognised that applicants may choose not to declare their status and that they are not obliged to do so. They should never be questioned on the matter at interview. Should an applicant voluntarily disclose then this should be kept confidential.

6.2.2 References

6.2.2.1 Particular care should be taken in seeking references. The applicant may have been in a different gender role in previous jobs – in such circumstances this should be checked with the applicant and subject to this discussion the previous name and gender may be used when requesting the reference.

6.2.2.2 Similarly, when providing references for an external employer, the LAS should use the name and gender in line with that stated by the organisation requesting the reference. If there is any doubt then the individual concerned should be contacted before the reference is provided.

6.3 DBS checks

6.3.1 A confidential process exists for transgender candidates, information is available on the DBS website <https://www.gov.uk/disclosure-barring-service-check/contact-disclosure-and-barring-service>

6.4 Records and confidentiality

- 6.4.1 Sometimes at the recruitment stage some of the details on the individual's documentation (such as passport, driver's licence or qualification certificates) may include details of the previous gender. The Recruitment Department will identify an individual to liaise with the transgender candidate who will be able to deal sensitively with the information. This will involve retaining only what is needed, ensuring that the data is kept securely and that there is no informal sharing of the information.
- 6.4.2 As far as possible, all employment records for a transgender person should not refer to someone's previous name/gender.
- 6.4.3 Access to records showing the change in name and any other details associated with the individual's transgender status such as records of absence for medical treatment, should be kept confidential.
- 6.4.4 At the appropriate point, new records should be produced, for instance the cover of a personnel file must be replaced and a new name included rather than the old file have the name crossed out and replaced.

6.5 Harassment and victimisation

- 6.5.1 Any allegations of harassment or victimisation of a transgender person will be addressed in line with the Dignity at Work Policy and Procedure (HR026) <https://thepulseweb.lond-amb.nhs.uk/policies-procedures/human-resources-policies/>

7 Gender transitioning

7.1 Making a plan

- 7.1.1 Clearly it may be a difficult step for an individual for someone to approach their manager to tell them they are planning to transition. The following sets out some issues for the manager to consider in such circumstances:
- Listen, show support, discuss levels of confidentiality;
 - Take advice from HR, the Diversity team or other specialist organisations;
 - Recognise that individuals may have a range of experiences or objectives for example some may be planning a medical intervention whilst others may prefer transition that does not involve any medical intervention or surgery.
 - Agree with the member of staff what steps need to be taken before, during and after their transition. The document cited at section 1 of this policy includes a template which may be used to draw up such a plan;
 - A series of review meetings may be set up to support the employee during the process.

7.1.2 In the unlikely event that a member of staff does not feel that they can approach their manager to discuss transitioning, then they should approach the Equality and Inclusion Manager who may be able to help facilitate a way forward.

7.2 Medical intervention

7.2.1 Discussions should take place with anyone undergoing medical intervention including the likelihood of the amount of time required away from work. Such situations should be managed in a similar way to others who may for example be away from work for planned surgery or other medical interventions.

7.2.2 Where possible, flexibility should be given to individuals who may need to take holiday or rearrange working hours in order to attend additional appointments outside of work.

7.3 Point or phase of change in personal details

7.3.1 Discussions should take place with the employee regarding the expected point or phase of change of name, personal details and gender.

7.3.2 These discussions should include whether the employee wishes to inform colleagues themselves or would prefer others to do this. An employee may often take a short period of leave prior to returning to work in their new gender and this may be the most appropriate time to tell colleagues.

7.3.3 Changes to the employee's records should also be discussed (see section 6.4)

7.4 Communication with colleagues

7.4.1 Manager should encourage the employee to describe what would be best for them in regards to communicating with colleagues. This could be in person at a team meeting, or on a one-to-one basis (with the transgender employee present or not) or alternatively it could be done through other means such as electronic communication.

7.4.2 The individual may not feel able to tell everybody at an early stage and if this is the case then it should be respected. Whilst every case is different, the communication needs to provide some general awareness raising and also address issues specific to the individual. Colleagues need to be able to ask questions and managers must set a tone of inclusion and respect.

7.4.3 Communication needs to be practical and include how to address the transgender employee – name, correct pronoun; how to support the colleague and how to deal with questions from outside which may breach confidentiality.

7.5 Use of single sex facilities e.g. changing rooms or toilets

7.5.1 The employee should, in discussion with the manager, agree which

facilities would be appropriate for that staff member and at what point.

- 7.5.2 Separate facilities may be used in the short term but it is not acceptable to insist on the individual using such facilities for the long term. The manager should ensure that the individual is supported in the use of single sex facilities and that the decision is communicated and explained as necessary to other staff.

7.6 Privacy

- 7.6.1 The Gender Reassignment Act 2004 made it a criminal offence in respect of disclosing the gender history to somebody else. Section 22 of the Gender Recognition Act says 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”

- 7.6.2 “Protected information” means information which relates to a person who has made an application under the Gender Recognition Act. This covers both the fact of the application itself and, if the application was successful, the fact that the individual was previously of the opposite gender to the one in which they are now legally recognised.

7.7 Dress Code

- 7.7.1 It may be that some flexibility is required around dress codes to accommodate the process of transition from one gender to another. As the process may take some time this is something that may be discussed with the employee at such a time that uniforms are re-ordered.

8 Further information

- 8.1 Further advice is available from the Trust’s Equality and Inclusion Manager.

- 8.2 A list of organisations who may be able to provide further advice is available by following the link at paragraph 1. Also the Unison guide on Transgender rights and good practice for employers
<https://www.unison.org.uk/content/uploads/2016/09/Transgender-workers-rights.pdf>

IMPLEMENTATION PLAN				
Intended Audience	For all LAS staff			
Dissemination	Available to all staff on the Pulse			
Communications	Via Rib.			
Training	Support as necessary via Diversity team and HR.			
Monitoring:				
Aspect to be monitored	Frequency of monitoring AND Tool used	Individual/ team responsible for carrying out monitoring AND Committee/ group where results are reported	Committee/ group responsible for monitoring outcomes/ recommendations	How learning will take place
None – confidential				Feedback from individuals should they choose to do so.