**Owner:** Equality and Diversity Service

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1. **Introduction**

1.1 BU is committed to a working and learning environment that is free from physical, verbal and non-verbal harassment and bullying of individuals on any grounds. All men and women have a right to be treated with dignity and respect, providing a positive and satisfying learning and working environment.

1.2 The University is proud to be a diverse community made up of staff and students from a wide range of backgrounds. We recognise that individual perceptions of acceptable and unacceptable behaviour at work or study may differ. The University aims to create a working and studying environment where different values and beliefs can be freely expressed and openly discussed and will do what it can to encourage open and respectful debate around Equality and Diversity issues.

1.3 BU will develop and grow a culture of valuing Dignity, Diversity and Equality of all individuals. BU will seek to uphold and, where possible, exceed the provision of equality legislation to reflect sector best practice. All staff and students have a duty to comply with this policy and so will need to be aware of their personal obligations in eliminating all forms of what the University considers to be unacceptable behaviour.

1. **Legislation**

2.1 There are some people whose gender identity does not match their appearance and/or anatomy. This is sometimes called “gender dysphoria” or “gender identity disorder”. People with this medical condition who decide to adopt the opposite gender to the one assigned at birth are known as “transsexual”. Medical treatment to enable transsexual people to alter their bodies to match their gender identity is highly successful. The process is known medically as ‘gender reassignment’. “Transsexual” also includes people living in their new gender, but who have elected for personal reasons not to undergo surgical treatment. Both have the benefit of the protection conferred by the Equality Act 2010 (the “Act”). This policy shall refer to such persons as “transsexual.”

2.2 Our Legal Duties

* Under the Act, a person has the protected characteristic of gender reassignment if he/she is proposing to undergo, is undergoing or has undergone a process (or part of a process) for the purpose of reassigning the person’s sex by changing physiological or other attributes of sex (s7 of the Act). Protection is not therefore contingent on undergoing medical treatment.
* The Act renders it unlawful to discriminate (directly or indirectly), harass or victimise a transsexual member of staff, student or service user.
* Protection afforded to staff includes job applicants and contract workers. The Act covers recruitment, terms of employment, transfer, training and promotion, access to work-related benefits, facilities and services, dismissal, and any other detriment. It is also unlawful for an employer to instruct someone else to do something discriminatory – for instance, telling an employment agency not to hire a transsexual person. Pressure to discriminate is also unlawful – for example staff threatening not to work unless their employer dismisses a colleague who has decided to undergo gender reassignment.
* Protection afforded to students includes recruitment (i.e. in the arrangements BU makes for deciding who is offered admission as a student), terms of admission, refusing admission, and the provision of education and related services.
* Protection to service users includes access to services and terms and conditions in the use of services.
* BU also has a general duty under the Act in the exercise of its functions to have due regard to the need to:

eliminate discrimination, harassment, victimisation and any other conduct rendered unlawful under the Act;

advance equality of opportunity between persons who share a relevant protected characteristic (such as gender reassignment) and those who do not share it. This includes removing or minimising disadvantages suffered by those who share the protected characteristic; and

foster good relations between persons who share a relevant protected characteristic (such as gender reassignment) and persons who do not share it.

* The Gender Recognition Act 2004 permits transsexual persons, who are able to satisfy a Gender Recognition Panel that they fulfil certain criteria, [[1]](#footnote-1) to be recognised in his/her acquired gender. Accordingly they will be issued with a Gender Recognition Certificate and as a result their gender becomes for all purposes the acquired gender and all laws and documents should be interpreted accordingly.
* If a member of staff/student has applied for or is in a possession of a Gender Recognition Certificate, it is unlawful to disclose their transgendered status without their consent.

2.3 See [Appendix A](#_APPENDIX_A_–types) for definitions of the different types of unlawful discrimination

1. **SCOPE AND PURPOSE**

3.1 BU is committed to promoting an environment which recognises and values people’s differences, acknowledges the benefits those differences can confer on BU and supports all staff and students to create a supportive learning and working environment, free from unlawful discrimination, so that they can realise their potential to succeed.

3.2 This policy applies to all BU staff and students, including visitors and workers, agency temporary staff, casual staff and contractors. It provides guidance about supporting people through the gender reassignment process, as well as providing general guidance on dealing with staff and students who have undergone gender reassignment.

3.3 This policy is also drafted to assist BU in complying with its obligations under the Act in relation to gender reassignment.

1. **KEY RESPONSIBILITIES**

4.1 BU’s Dignity, Diversity and Equality Steering Group has overall responsibility for the effective operation of this policy, but has delegated day-to-day responsibility for its operation to BU’s Equality and Diversity Adviser**.** Responsibility for monitoring and reviewing the operation of this policy and making recommendations for change to minimise risks also lies with the Equality and Diversity Adviser.

4.2 All staff with management and leadership responsibilities have a specific responsibility for operating within the boundaries of this policy ensuring that all staff understand the standards of behaviour expected of them and taking appropriate action when behaviour falls below its requirements.

4.3 All staff and students are also responsible for the success of this policy and should ensure that they take the time to read and understand it. Any unlawful discrimination on the grounds of gender reassignment should be challenged and reported to a Line Manager, Dean of School or Director/Head of Professional Service. Questions regarding the content or application of this policy should be directed to BU’s Equality and Diversity Adviser

1. **LINKS TO OTHER BU DOCUMENTS**

5.1 Unlawful discrimination on the grounds of gender reassignment is a breach of this policy and the following BU policies;

* Our Dignity, Diversity and Equality Policy;
* Our Disciplinary Procedures ;
* General conduct policy
* Our Data Protection Policy;
* Code of Practice on Harassment;
* Obligations with respect to rules of relevant regulatory bodies;
* Any other laws or ethical standards;
* Admissions Regulations;
* Admissions Policy & Procedures;
* Admissions Appeals; and
* Student Complaints Procedures.
1. **Policy**
	1. BU views unlawful discrimination (including harassment and/or victimisation) against any student or member of staff on any protected ground as a serious disciplinary offence.
	2. BU will take disciplinary action where appropriate in accordance with relevant disciplinary procedures against any individual responsible for perpetrating forms of unlawful discrimination. Individual members of staff and students should draw to the attention of their line manager, Dean of School or Director/Head of Professional Service any incidences of harassment, direct or indirect discrimination or victimisation or in order that appropriate action can be taken.
	3. Achieving BU’s diversity and equality of opportunity objectives broadly, and those outlined in this guidance more specifically, is the shared responsibility of those individuals who hold line management positions at BU. However, all members of the BU community (staff, students and others) are responsible for helping to ensure that transsexual staff, students and/or service users do not suffer unlawful discrimination.
	4. Complaints from staff and students relating to harassment and bullying on grounds of gender reassignment will be dealt with under Harassment Policies.
2. **Supporting staff and students**

7.1 Staff undergoing the process of gender reassignment can seek support from their line manager, Human Resources Manager or Occupational Health and Wellbeing Adviser. It is recommended that the contact person works with the transsexual member of staff to agree an action plan to cover the period of their transition. Information relating to the person’s gender reassignment should be kept confidential. All members of the BU Community (staff, students and others) should refer to the transsexual person by their new name and use pronouns appropriate to the gender which they are seeking to acquire.

7.2A transsexual student undergoing the process of gender reassignment can seek support from the Head of Student Services or nominee. The nominated BU person should work with the student to agree an appropriate and reasonable action plan for support to cover the period of their transition insofar as it is relevant to the student’s activities as a student. Information relating to the student’s process of gender reassignment must (except where identified and agreed in the support plan), where possible, be kept confidential.

**8 Transition Support Plan**

8.1 The transsexual student or member of staff and their main contact should draft an action plan together (see Appendix B) for managing the gender-transition process insofar as it is relevant to their status as a member of staff or student at BU.

8.2 These action plans, together with any other notes of the meeting, must be kept confidential and destroyed once the person has obtained a Gender Recognition Certificate.

**9. Use of Single Sex Facilities**

9.1 There is a medical requirement for a transsexual to live as their chosen gender before undergoing any surgical procedure. As a result, the action plan should cover the point at which the transsexual student or member of staff will change their use of single sex facilities, such as changing rooms and toilets from one sex to the facilities of their acquired gender. In determining this, the main contact and transgender student or member of staff should consider all the circumstances, taking account of (i) the stage reached in their reassignment; (ii) the transgender individual’s own assessment and presentation and (iii) the susceptibilities of other staff and/or students using the facilities (although these are not determinative).

9.2 Often the change will take place at the point at which they decide to live in the acquired gender and thereafter they should not be required to use disabled toilet facilities or the toilet facilities of the gender from which they are being reassigned. The issue should be handled with understanding and it is helpful to recognise that the most vulnerable person using the facilities will be the transsexual person.

**10. Sickness and absence from BU**

10.1 In developing the transition action plan, the time the transsexual student or member of staff will need in order to undergo gender reassignment treatment should be discussed.

10.1.1 **Staff**

When the transsexual member of staff is absent for treatment or surgery then normal sick-pay arrangements or absence arrangements should apply. The normal policy for medical appointments should also apply, reasonable flexibility should be offered in taking holiday or rearranging working hours or academic commitments in order to attend medical appointments. Usual medical/sickness certificates will be required, but they do not need to state the procedures performed. Further detail can be found in the BU absence policy.

10.1. 2 **Students**

Usual provisions for dealing with student absence will apply.

**11 Disclosure and Barring Service (DBS) (formerly Criminal Records Bureau (CRB) Checks)**

The CRB developed a separate application procedure, now operated by the DBS, which allows transsexual applicants to exclude previous names from the Disclosure Application form. However, applicants will still be required to send details of their previous identity in a separate letter directly to the DBS ‘Sensitive Casework Team’. When recruiting staff or students in circumstances where DBS checks are required, BU should follow the DBS’s requirements in respect of which original documents applicants should provide to BU as proof of their identity. BU staff should not demand to see an original birth certificate where other original documentation can be requested instead to satisfy the identity checks under the DBS process.

**12 Change of name/Degree and other Certificates**

A degree certificate is a legal document. Institutions will need to see legal proof of name change, for example a statutory declaration of name change or a birth certificate, to issue or reissue a certificate in a name different from that under which the student originally registered. This information will only be viewed by the Student and Academic Services Directorate who will make the necessary changes to the system. BU will provide students who have obtained a Gender Recognition Certificate after completing a BU qualification with replacement degree certificates and transcripts/diplomas in the acquired gender names and titles.

See Appendix C for further information on amending records.

**13 Pre-employment/recruitment**

Individuals who have already undergone gender reassignment will not be required to inform BU of the change. Job applicants, interviewees and applicants for places on courses should not usually be asked questions about their transsexual status.

**14. REFERENCES AND FURTHER INFORMATION**

For more guidance on gender transition, the Equality Challenge Unit has produced a series of resources will be found at:

http://www.ecu.ac.uk/subjects/trans

Further information is available from BU’s Equality and Diversity Service, Occupational Health and Wellbeing Adviseror, your HR Manager.

**APPENDIX A – Types of discrimination**

**Direct discrimination** - where BU treats an applicant/student/member of staff less favourably because of gender reassignment a protected characteristic.

**Indirect discrimination** – BU discriminates against an applicant/student/member of staff (X) if it applies a provision, criterion or practice (PCP) which is discriminatory in relation to gender reassignment if:

1. BU applies the PCP to applicants/students/staff who are not proposing to undergo, are not undergoing or have not undergone gender reassignment and;
2. it puts or would put applicants/students/staff who are proposing to undergo, are undergoing or have undergone gender reassignment at a particular disadvantage when compared with other applicants/students/staff and;
3. it puts X at that disadvantage; and
4. BU cannot show it to be a proportionate means of achieving a legitimate aim (i.e. it cannot be objectively justified).

**Harassment** -unwanted conduct (including unwanted conduct of a sexual nature) related to gender reassignment which has the purpose or effect of violating a person’s dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for him/her.

**Victimisation** - where BU subjects an applicant/student/member of staff to a detriment because he/she has commenced proceedings for discrimination, has given evidence or information in connection with such a claim, has done any other thing for the purposes of or in connection with the Act or made an allegation (express or otherwise) that there has been a breach of the Act. Protection is not afforded where the person makes an allegation or has given evidence, information etc. in bad faith.

**APPENDIX B - Examples of issues that may be covered in a Transition Support Plan for staff and students**

**Staff**

* Does the member of staff feel comfortable continuing in their current role? Are there any temporary or permanent changes to the role which could reasonably be considered to support the member of staff?
* What is the expected timescale of the medical and surgical procedures, if known?
* Is any time off required for medical treatment? If so how will this be dealt with?
* What will the member of staff new title and name be?
* When do they wish to start using this name and title?
* When do they wish to start dressing and presenting as their acquired gender? Will this be gradual?
* Are there any dress codes which need to be considered?
* When does the staff member wish to use toilet and changing facilities appropriate to their acquired gender?
* When, how and which Human Resources records and or systems will need to be amended?
* Subject to respecting the individual’s reasonable expectation of privacy, when and how should colleagues and students (if relevant) be informed of the transition?
* Is there any education material which could be used?
* If any bullying or harassment occurs how will it be dealt with?

Actions Agreed

Date of next meeting

**Students**

* Does the student feel comfortable continuing with their current course/cohort?
* Are there any temporary or permanent changes to the student’s experience at BU which could reasonably be considered in order to support the student?
* What is the expected timescale of the medical and surgical procedures, if known?
* Is any time off required for medical treatment? If so how will this be dealt with?
* What will the student’s new title and name be?
* When do they wish to start using this name and title?
* When do they wish to start dressing and presenting as their acquired gender? Will it be gradual?
* Are there any dress codes which need to be considered?
* When does the student wish to use toilet and changing facilities appropriate to their acquired gender?
* When will the Personal Tutor be informed and what records and or systems will need to be amended? Will this only occur when the Gender Recognition Certificate is obtained?
* When should other members of academic staff/student support staff be informed, and how should this happen?
* When and how should other students be informed of the transition?
* When should relevant BU departments and services be advised of the transition?
* If any bullying or harassment occurs how will it be dealt with?

Actions Agreed

Date of next meeting

 **APPENDIX C - Name changes and data storage**

When a student or member of staff has obtained a Gender Recognition Certificate, relevant records of their previous name should be removed from BU systems and replaced with the name in the acquired gender. Below is a list of possible records that may need to be amended if a student or member of staff changes their name:

[**Students – *insert any additional relevant records*]**

* Student ID Card
* Personal Tutor Records & Files
* Programme / Module staff records
* Student Support Files
* Counselling Files
* Halls of Residence Records/Halls of Residence ID Cards Certificates
* Car Park Permit / Records
* Council Tax exemption form / record
* Sports facilities records
* Degree Certificates/awards

**Staff**

* Staff ID Card
* Department Websites
* Department staff lists
* Module/Programme Staff Lists
* Prospectus
* Policy and Procedure contact lists
* Car park permit

[Pension Records – ***specific advice may be needed in relation to pension records***]

* Trade Union Membership Records
* Department contact lists / signs
* Door signs
* Training certificates and records
1. That they have or have had gender dysphoria, have lived in the acquired gender for two years and intend to do so until death, supported by prescribed medical evidence. [↑](#footnote-ref-1)