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# **Trans Rights At Work**

**A Guide for Trade Unionists  
on Trans Equality**

# Introduction

Trans people are some of the most disadvantaged and discriminated people in Scotland and the UK. Trade unions play a vital role in fighting all forms of discrimination, bullying, and harassment, including transphobia. This guide has been developed by the Scottish Trade Union Congress' (STUC) LGBT+ Workers' Committee. It is designed to be a practical tool for union reps and activists to further support trans workers/members and how trade union reps can help to embed trans equality and inclusion at work.

This guide aims to provide trade union reps with a greater understanding of:

- Transgender people and transitioning at work.
- Transphobia and discrimination at work.
- Existing laws that protect trans people at work.
- Inclusive language and LGBTQ+ terminology.
- Trans allyship and supporting trans workers.
- Practical tools trade union reps can implement.
- Examples of implementing and negotiating a trans equality model policy.

## STUC Trans Policy Position

Transphobia has no place at work. Everyone should be safe to be themselves at work and be treated with dignity and respect. The STUC firmly supports trans people and the position of self-identification. The STUC has, and continues to proudly support campaigns to promote, protect, and advance the rights and livelihoods of transgender people in Scotland. It is STUC policy to support reforms of the 2004 Gender Recognition Reform Bill and self-identification. The STUC encourages all employers to embed trans inclusive workplace policies and to actively work with trade unions and LGBT+ workers to promote and achieve trans equality at work.



# Understanding 'Transgender'



## What is trans?

Trans is often used as shorthand for transgender. Trans is an umbrella term to describe people whose gender is not the same as, or does not sit comfortably with, the gender they were assigned at birth. Some transgender people identify neither a man nor a woman and may use terms like nonbinary or genderqueer to describe their gender identity. Those who are nonbinary often prefer to be referred to as "they" and "them."

Further information on terminology and pronouns can be found later in this guide.

## What is transitioning?

When a person begins to live according to their gender identity, rather than the gender they were thought to be when they were born, this time period is called gender transition. Sometimes, it may be a social change, for example changing name/s, clothing and/or pronouns. For others, transitioning may involve things such as: medical interventions for example hormone therapy or surgery. Or it may be a combination of different things. Transitioning is a very personalised process and journey; it really depends on the individual to decide which changes (if any) to make and when to make them. It is important that reps understand that each trans persons transitioning experience is unique to them.

## Transitioning barriers

Transitioning can be both life-affirming and lifesaving for people. However, many transgender are afraid to disclose that they are trans or transition for risk of social stigma, discrimination, bullying and harassment by their employers and/or colleagues. For example, some transgender people may experience resistance from employers/colleagues when requesting that the name they have adopted be implemented and used.

The lack of understanding around transgender issues and the myths surrounding transgender people can fuel the spread of misinformation in the workplace. This can make trans people feel isolated, dis-respected, and unsupported in the workplace.

The workplace plays an important role in supporting people transition and in helping trans people feel safe and treated with dignity during this process. By being proactively pro trans inclusive and embedding trans inclusive policies, trans people can feel more confident and able to share that they are going through transition with their employers and colleagues and receive the support and respect they deserve. Union reps can be a lifeline to those transitioning at work – understanding the barriers trans people may face can help to build trust, ensure the correct provisions are in place and upheld, and make trans people feel safe and supported. Trade union reps can also be pro-active in negotiating for trans inclusive policies and trans equality education to be implemented even if it is not known whether there is a trans person at work or not.

## Existing Laws and Legislation

There are a number of existing pieces of legislation in place that trade unions reps should be aware of when supporting, representing and/or advocating for trans people.

### Equality Act (2010)

Trans people are protected at work under the 'gender reassignment' characteristics of the Equality Act 2010. This also includes non-binary people. The Equality Act is clear that no one should be discriminated against because of their gender reassignment.



### Gender Recognition Act 2004

The Gender Recognition Act 2004 created a process to enable trans people to change the sex they were assigned at birth and recorded on their birth certificates to reflect their lived gender identity. As it stands, to obtain a Gender Recognition Certificate (GRC) in Scotland/UK, trans people must have lived socially in their acquired gender and changed their gender on other official documents for two years before applying to the UK Gender Recognition Panel. Trans people will then attend a UK Gender Recognition Panel who will decide whether to grant this



certification. Trans people find the current system of obtaining a GRC intrusive, medicalised, undignified, and bureaucratic. Reforms to the Gender Recognition 2004 Act aims to improve and simplify this process.

### **The Gender Recognition Reform (Scotland) Bill**

The Scottish Government introduced a Bill to reform the 2004 Gender Recognition Act to improve the current system to make it easier and more dignified for trans people to change the 'legal sex' on their birth certificate and apply for legal recognition through a Gender Recognition Certificate (GRC). The Bill was overwhelmingly supported by the Scottish Parliament and passed in December 2022. At the time of writing this guide, the UK Government has since blocked the GRR Bill from being implemented in Scotland.

### **Public Sector Equality Duty**

Trans people are protected by the Public Sector Equality Duty in Scotland. This applies to all public authorities in Scotland - for example local councils, schools, and council run services. It states that public authorities actively must:

- eliminate unlawful discrimination.
- advance equality of opportunity between people who share a protected characteristic and those who don't.
- foster or encourage good relations between people who share a protected characteristic and those who don't.

### **Health and Safety at Work Act 1974**

The Health and Safety at Work Act 1974 (HASWA) lays down wide-ranging legal duties on employers. Employers must protect the 'health, safety and welfare' at work of all their employees, as well as others on their premises, including temps, casual workers, the self-employed, clients, visitors, and the general public. As well as the Equality Act, like all workers, trans people have the right to a safe workplace. Embedding trans equality and inclusive policies at work can help to ensure all trans people feel safe at work to be who they are.

### **Do trans people who have undergone medical intervention need to be covered by 'gender reassignment' at work?**

No. It is important that trade union reps are aware that trans people do not need to have medical intervention or have obtained a Gender Recognition Certificate to be protected by gender-reassignment at work under the Equality Act 2010. A trans person can be at any stage of their transition journey, from proposing to reassign the sex assigned at birth, undergo a process of reassignment, or have completed it. This means that from the moment a person begins their social transition, for

example asking to be called a different name at work, trans people of any age are protected under the 'gender reassignment' characteristic.

Although the phrase 'gender reassignment' is used in the Equality Act 2010, it is now generally considered to be out-dated language. Both the Equality Act 2010 and the Gender Recognition Act 2004 are clear that gender reassignment need not involve any medical intervention. However, the phrase is widely misinterpreted to assume that it is a medical process, and this can feed myths and misunderstandings.

## Discrimination - what is transphobic discrimination?

It is unlawful to discriminate against trans people at work.

The UK Equality Act 2010 prohibits discrimination and harassment in employment and provision of goods, facilities, and services, including education and housing. It covers the protected characteristics of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.



Trans people are protected under the 'Gender-reassignment' characteristic of the equality act. However, though unlawful, unfortunately discrimination towards trans people still occurs. Trans people continue to face high levels of discrimination and bullying at work and in society.

There are four key types of transphobic discrimination this includes:

**Direct discrimination** – when a trans person is treated less favourably than others because they are trans. For example, if a trans person loses their job when an employer's finds out you're trans.

**Indirect discrimination** – when rules or arrangements are in place that put trans people at an unfair disadvantage. For example, a workplace uniform/dress code that is gender specific. This could mean that a trans employee finds it difficult to give the appearance of being the gender with which they identify not the one that they were assigned at birth or may be recorded on their work records.

**Harassment** - this is when there is unwanted behaviour that violates someone's dignity or causes offence. To be transphobic discrimination /harassment the behaviour needs to be linked to someone being trans. For example, a manager/colleague could deliberately send a trans person message which intentionally misgender them. Transphobic harassment could also be trans-phobic 'jokes' around the office and the use of derogatory trans-phobic terms.

**Victimisation** - when a trans person may be treated less favourably as a result of having made, tried to make, helped someone else to make or assumed to have made, a complaint or grievance of discrimination on the grounds of gender reassignment. For example, a trans person who may complain about transphobic discrimination then being chosen for redundancy.

Transphobic discrimination can also arise in relation to the use of single-sex facilities at work, such as toilets and changing facilities. It is generally agreed that a trans person should be free to use the facilities for the gender with which they identify once a trans person start to live full-time as that gender.

## Inclusive Language and Terminology

Trade union reps, officials, and members may worry about using the wrong language when supporting trans members or discussing trans equality.

Some may feel ill-equipped, nervous or may not have heard of some of the concept and terminology that can be associated with trans equality and LGBT+ inclusive language.

Everyone has the right to a safe, equal, and fair workplace, and where everyone feels included and respected. Using inclusive language and communication is a big part of achieving this. Inclusive language is a way of acknowledging and respecting the diversity of bodies, genders, and relationships of all.



# Inclusive Language and Terminology

Terminology is constantly changing and evolving - the next page is a non-exhaustive list of some common definitions and terminology to support trade unionists in gaining a better understanding of terminology.

## Asexual

A person who does not experience sexual attraction. Some asexual people experience romantic attraction, while others do not.

## Ally

A (typically) straight and/or cis person who supports members of the LGBT community.

## Bi

Bi is an umbrella term used to describe a romantic and/or sexual orientation towards more than one gender.

## Biphobia

The fear or dislike of someone who identifies as bisexual based on prejudice or negative attitudes, beliefs or views about bisexual people.

Biphobic bullying may be targeted at people who are, or who are perceived to be, bi.

## Cisgender or Cis

Someone whose gender identity is the same as the sex they were assigned at birth. A person who is not transgender.

## Deadnaming

Calling someone by their birth name after they have changed their name. This term is often associated with trans

people who have changed their name as part of their transition.

## Gay

Refers to a man who has a romantic and/or sexual orientation towards men. It is also a generic term for lesbian and gay sexuality - some women define themselves as gay rather than lesbian. Some non-binary people may also identify with this term.

## Gender

Often expressed in terms of masculinity and femininity, gender is largely culturally determined and is assumed from the sex assigned at birth.

## Gender binary

The dominant idea in Western society that there are only two genders ('man' and 'woman'), that all people are one of these two genders, and that the two are opposite.

## Gender dysphoria

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 sex they were assigned at birth.

### **Gender expression**

How a person chooses to outwardly express their gender, within the context of societal expectations of gender, such as such as clothing, hairstyle, make-up, mannerisms, etc. A person who does not conform to societal expectations of gender may not, however, identify as trans.

### **Gender identity**

A person's innate sense of their own gender, whether male, female or something else (see non-binary below), which may or may not correspond to the sex assigned at birth.

### **Gender reassignment**

Another way of describing a person's transition. To undergo gender reassignment can sometimes mean to undergo some sort of medical intervention, but it can also mean changing names, pronouns, dressing self-identified gender. Gender reassignment is a characteristic that is protected by the Equality Act 2010.

### **Gender Recognition Certificate (GRC)**

This enables trans people to be legally recognised in their affirmed gender and to be issued with a new birth certificate. Not all trans people will apply for a GRC, and you currently have to be over 18 to apply.

You do not need a GRC to change your gender markers at work or to legally change your gender on other documents such as your passport.

### **Heterosexual/straight**

Refers to a man who has a romantic and/or sexual orientation towards women or to a woman who has a romantic and/or sexual orientation towards men.

### **Homosexual**

This might be considered a more medical term used to describe someone who has a romantic and/or sexual orientation towards someone of the same gender. The term 'gay' is now more generally used.

### **Homophobia**

The fear or dislike of someone, based on prejudice or negative attitudes, beliefs, or views about lesbian, gay or bi people. Homophobic bullying may be targeted at people who are, or who are perceived to be, lesbian, gay or bi.

### **Intersex**

A term used to describe a person who may have the biological attributes of both sexes or whose biological attributes do not fit with societal assumptions about what constitutes male or female.

### **Lesbian**

Refers to a woman who has a romantic and/or sexual orientation towards

women. Some non-binary people may also identify with this term.

### **Lesbophobia**

The fear or dislike of someone because they are or are perceived to be a lesbian.

### **LGBTQ+**

The acronym for lesbian, gay, bi, trans, queer and many other types of gender and sexual identities.

### **Misgender/misgendering**

When somebody makes incorrect assumptions about your gender or refuses to accept your gender and uses language that makes this apparent, such as pronouns or gendered language like 'sir' or 'madam'.

### **Non-binary**

An umbrella term for people whose gender identity doesn't sit comfortably with 'man' or 'woman'.

### **Outed**

When a lesbian, gay, bi, or trans person's sexual orientation or gender identity is disclosed to someone else without their consent.

### **Pronouns**

The way someone refers to you or words we use to refer to people's gender in conversation - for example, 'he' or 'she'. Some people may prefer others to refer to them in gender

neutral language and use pronouns such as they/their.

### **Queer**

Queer is a term used by those wanting to reject specific labels of romantic orientation, sexual orientation and/or gender identity. Although some LGBT people view the word as a slur, it was reclaimed in the late 80's by the queer community who have embraced it.

### **Sex**

Assigned to a person on the basis of primary sex characteristics (genitalia) and reproductive functions.

### **Sexual orientation**

A person's sexual attraction to other people, or lack thereof.

### **Trans**

An umbrella term to describe people whose gender is not the same as, or does not sit comfortably with, the sex they were assigned at birth.

### **Transgender man**

A term used to describe someone who is assigned female at birth but identifies and lives as a man. This may be shortened to trans man, or FTM, an abbreviation for female-to-male. FTM is an increasingly outdated term.

### **Transgender woman**

A term used to describe someone who is assigned male at birth but identifies and lives as a woman. This may be

shortened to trans woman, or MTF, an abbreviation for male-to-female. MTF is an increasingly outdated term.

### **Transphobia**

The fear or dislike of someone based on the fact they are trans, including denying their gender identity or refusing to accept it. Transphobia may be targeted at people who are, or who are perceived to be, trans.

## **Understanding Pronouns**

### **What is a pronoun?**

Pronouns, such as "I", "they", "she", "he", "we", "hers" and many others, are a part of our daily language. Pronouns are used as a way to identify or refer to someone. Rather than assume someone's pronouns based on their appearance, it's crucial to ask them what their pronouns are. Using pronouns creates safer and more inclusive spaces for people to be themselves, knowing that other people are going to respect their identity.

### **Using pronouns at work**

You may have noticed someone at work with he/him, she/her or they/them on their email signature or their social media bio recently?

The correct use of pronouns can help all staff members feel included at work. It can reassure trans and gender non-conforming colleagues that they are welcome and respected by their work colleagues and included in the workplace/organisation. For some it might not seem that important but for trans and non-binary people in particular it can help really help make them feel respected and validated by their colleagues/place of work.

Most people have the privilege of not having to worry about others misusing their pronouns. Taking that privilege for granted and failing to use someone's correct pronoun is not only disrespectful and hurtful but can also lead to that person feeling alienated.





It is important to respect pronouns as it validates a person’s identity, and you shouldn’t assume someone’s pronoun. Remember to ask about pronouns when you meet someone or introduce yourself using your pronouns to let others know what your pronouns are. Respecting people’s pronouns is the vital first step in creating an inclusive environment.

Trans and non-binary people already face high levels of discrimination, judgment, and intimidation. What might seem a small change to other could make the difference for trans people.

## Examples of pronouns

### Gender specific pronouns



#### She/her/hers – who would use this?

The pronouns she / her / hers are gender specific pronouns mostly commonly used by women and girls. If someone puts “she/her” on their badge/email signature, then they are happy to be referred to by this. Example: ***“She has joined the trade union. Her point was very well made at the meeting.”***

## He/him/his – who would use this?

The pronouns he / him / his are gender specific pronouns mostly commonly used by men and boys. If someone puts “he/him” on their badge/email signature, then they are happy to be referred to by this. Example: ***“He was elected to the position. His job description is being changed”.***

## Gender neutral pronouns

### They/them/theirs – who would use this?

The pronoun of they/them/theirs are gender neutral or gender inclusive pronouns are unspecific to one gender. If someone puts ‘they/them’ on their badge/email signature then they wish you to refer them to they rather than a gendered specific pronoun. For example, instead of saying ***“he’s going out for lunch”***, one would say ***“they’re going out for lunch”***. A further example: ***“Jesse is in the same team as me, so I’ll work with them”***.

### Non-binary people –

Many non-binary people use the pronoun ‘they’. It may take time to get used to non-gendered pronouns, but it is important to respect people’s gender identity. Increasing numbers of people are identifying as non-binary or gender queer.

It is increasingly common for groups to ask everyone to give their pronoun when they introduce themselves, along with their name. This avoids singling anyone out. However, people should be mindful that not everyone will feel safe and able to share their pronouns in every setting.





# Examples of how trade unionists can implement more inclusive language and pronouns.



Trade unions have already started to change their language – across most unions and branches trade unionists have replaced things like **'branch chairman'** to branch **'chair'** or **'man the stall'** having replaced this with **'staff the stall'**.

If you are fortunate enough to chair a conference, instead of calling for the **"man in the red shirt"** **"women with the blonde hair"** you could call for **the "delegate or comrade in the red shirt/blonde hair"**.

If you are addressing a conference, branch, or event **instead of addressing the conference with "brother and sisters"** only you could say **"brothers, sisters, non-binary siblings, friends"** or **"delegates, friends, conference"**.

If you are referring to a member or colleague and you don't know their gender-identify or are unsure on how they identify, instead of assuming/referring to 'she/he' you could use 'they'. For example, rather than using **"she made a great contribution"** you could use **"they made a great contribution"** in circumstances where you are not sure how they identify.

Just changing a few words will make non-binary members in particular feel more included at work and within the trade union movement.

Additional changes trade unionists could help to implement:

- Incorporating pronouns into name badges at events/conferences/meetings
- Adding pronouns to your signature on emails/teams/zoom.
- Respecting others pronouns.
- Encouraging colleagues/friends/members to use their pronouns and being advocates.
- Actively learn more about pronouns to help members/colleagues.

If you don't know, respectfully ask. If you noticed a pronoun on a signature/email/in-person and you haven't seen this before, politely and respectfully ask if that person could explain to you so you can refer to them in they way they would wish to be.

# How can you be a good trans ally and friend?

The trade union movement is rooted in solidarity, equality, fairness and at the forefront of standing up for people's rights. Some trade unionists might not feel confident about discussing trans equality or issues or how they can be a trans ally/friend. Some people may even feel nervous. Trans people are part of our movement and workplaces. If you are a trade union member, activities, officer, organised – then you should be committed to being a good trans ally/friend.

## What is a trans ally?

A trans ally is anybody who is committed to being open-minded and respectful to people who may have a different gender identity to them or presents their gender in a different way. A trans ally is someone who has taken the time to learn more about trans people and their lives and confront assumptions and stereotypes around trans people. Allies work to ensure trans people are treated with respect in and outside of the workplace.

Every non-trans person can be a trans ally and work to ensure trans people are treated with dignity and respect. Allies are not all the same – they may do very different things to support trans people depending on their own skills and abilities.

## Ways that you can be a good trans ally and friend...

- ✓ Be a listener.
- ✓ Be open-minded.
- ✓ Be willing to talk.
- ✓ Be inclusive and use inclusive language.
- ✓ Don't assume that all your friends and co-workers are cisgender. Someone close to you could be looking for support in their coming-out process. Not making assumptions will give them the space they need.
- ✓ Anti-trans comments and jokes are harmful. Let your friends, family, colleagues, union members know that you find them offensive and call them out.
- ✓ Know fact from myths. Don't let mis-information fuel.
- ✓ Confront your own prejudices and bias, even if it is uncomfortable to do so.
- ✓ Defend your trans colleagues, friends, members against discrimination.
- ✓ Believe that all people, regardless of gender identity and sexual orientation, should be treated with dignity and respect.
- ✓ Don't patronise.

# Understanding transitioning at work

Trade unionists, especially trade union reps will support members on a wide range of this. Whilst every trans person's transitioning journey is unique to them by having a better understanding of transitioning at work you will be able to feel more confident to support trans members through transition, negotiate policies, procedures, and processes to support this, and be a better trans ally. This section aims to help reps to understand transitioning at work and how they can support trans members/colleagues.

## Transitioning at work – agreeing a process

Gender transitioning can be a very stressful time for a person. They may have spent a long time thinking about it and may face rejection from family, friends, and co-workers. How it is handled at work can make all the difference. It is very important that the employer agrees how the process will work with the person concerned, right from the start.

Trade union reps can play a pivotal role in ensuring this process is dignified, respectful and as supportive as possible.

Things that need to be considered during transition at work include:

- The expected point or phase of change of name, personal details, and gender.
- Whether the member wishes to inform line managers, co-workers, and service users themselves, or would prefer this to be done for them.
- What amendments are required to records and systems, including whether systems allow for non-binary gender identities, for example on the PAYE system.
- What practical arrangements need to be in place, such as security passes, new name badge, email addresses, any gendered uniform.
- Whether existing policy on issues such as confidentiality and harassment address transgender equality and if not, how these will be amended.
- What training managers and co-workers need if this has not been given; when will it happen and who will carry it out
- The expected timescale of any medical and surgical procedures
- What time off may be required for treatment and/or possible side effects.
- Whether the member wants to stay in their current post or be redeployed

## Communicating with other workers or service users

If a person is going through transition, there is no obligation for workplaces to inform colleagues or services users that a trans person may work with them. However, if a person has let their workplace and/or trade union rep know of their transition, it is good practice for employers to take responsibility of informing those who need to know, but the individual's wishes should be given priority. Workplaces should work with the person that may be transitioning, and their trade union rep, to ensure that communication is agreed.

It is very important that both employers and trade union reps do not breach any trust or confidentiality or share this without the permission of that person. There should be general information available about transgender people that can help colleagues understand transition and any relevant information about the person, with permission communicated. Trans people's right to work in dignity and free from discrimination and the unacceptability of harassment must be made clear.

## Trade union reps can support trans people at work by working with management to:

- Ensure that the name, or names, the person wishes to be known by and emphasise the importance of using the correct name and gender pronoun (he, she, or they)
- Respect the wishes of the transgender person and their right to confidentiality when discussing personal aspects.
- Making sure that the trans person/member you may be representing and/advocating for feels in control of the process and involved. Everyone's journey is unique to them.
- Helping to secure time off without being penalised to attend medical appointments if required and to be properly supported.
- Build a trans inclusion policy if there is not already one in place.
- Advocating on trans members behalf and supporting them through the transition process.
- Support member to update trade union membership details and make sure this is respected in all union communications.

## Gender reassignment under medical supervision

Trans people, including non-binary people, may take hormones and/or have surgery. Trans people are a diverse group and there is no one 'correct' way to transition. Accessing NHS gender identity services requires diagnosis by a specialist and may take months or years. Waiting lists vary around the UK but can be substantial. Appointments may involve travelling long distances, so are likely to take a whole day. This can be an extremely stressful time for people.

There is no need for managers to have details about a person's medical treatment except in relation to expected time off or necessary adjustments at work during or following treatment.

## Negotiating paid time off for treatment

It is unlawful to treat trans people less favourably for being absent from work for gender reassignment than they would be treated if they were ill or injured.

Best practice is for unions to negotiate adequate paid time off, distinct from other sick leave. Gender reassignment treatment should **not** be regarded as elective or cosmetic. Time off should ideally be recorded separately from

sickness absence and not used for absence management or monitoring purposes by the employer.

## Capability procedures

Employers should be made aware of possible side effects of medication and stress of transitioning, which can affect work performance. People sometimes need reduced hours or duties for a temporary period following surgery. Together with the member, unions should discuss options with the employer. Some employers may try to dismiss workers for lack of capability. Unions must make it clear to the employer that this is unacceptable and may well be unlawful discrimination.

## Redeployment and retirement

Most people want to stay in the same job through transition. Occasionally, a worker may want to be redeployed or retired. The earlier this is raised, the better the chance of a good outcome. If redeployment does take place, it will usually coincide with the change of gender.

Unions should make sure that difficulties meeting the member's preferences on redeployment are not turned into grounds for dismissal or retirement. Active steps should be taken to prevent harassment and ensure support from colleagues and managers.



## **Non-binary members**

Some people don't think of themselves as simply women or man. Their gender identity is more complicated. Some may identify as right in the middle between a woman and man.

Due to society's expectation that all people, including transgender people, will identify as simply a woman or a man, it can be difficult to work out how to express a gender identity which does not fit neatly into the gender binary. Some people experience a long period of uncertainty about how they relate to the highly gender-stereotyped world around them. However, a growing number of people are identifying as non-binary.

STUC supports the call for their recognition under the law, at work and in service provision. Workplaces and union records should provide for non-binary gender identities. This should also be included in all forms, including branch forms.

## **Gendered facilities**

It is increasingly common – and increasingly welcome – for at least

some changing and toilet facilities to be available to all, irrespective of gender. Where facilities are gendered, all workers should be able to use them according to the gender in which they attend work.

It is not acceptable to insist on transgender workers using specific facilities, for example a non-gendered wheelchair accessible toilet, just because they are trans.

Transgender workers are entitled to support from their employer, including appropriate discussions with co-workers and service users. It is the employer's responsibility to manage attitudes. If these are mismanaged, it can cause bad feelings and hostility between co-workers.

## **Dress codes/uniforms**

Many workers appreciate dress codes which do not differentiate according to gender. Where dress codes are different for men and women, unions should negotiate flexibility for members in the process of transition and for others who require it, such as non-binary members.

## Checklist of negotiating points

Unions should negotiate with employers so that:

- ✓ Gender identity and gender reassignment are included in equality policy and practice and there is well publicised compliance with the law.
- ✓ Transgender equality is clearly included in any equality objectives and equality scheme, including specific actions in equality plans and checks in equality impact assessments.
- ✓ Policies and procedures are checked for unnecessary or non-inclusive references to gender and acknowledge and accommodate non-binary identities.
- ✓ All workers are trained and informed about transgender people's rights - that harassment and discriminatory behaviour will not be tolerated.
- ✓ All workers are treated as the gender or genders in which they live and work, irrespective of their legal sex.
- ✓ There are clear procedures for members who are transitioning at work
- ✓ Workers undergoing medical gender reassignment have paid leave from work for specialist appointments and treatment, recorded separately from sickness absence and not used for absence management purposes.
- ✓ All records are kept up to date, old records destroyed, and confidentiality is practised scrupulously.
- ✓ Consideration is given to any gendered facilities and gender-specific dress codes.
- ✓ Transgender people who have not acquired Gender Recognition Certificates are advised of any legal implications of their status for pensions and other gender-related benefits.

# Trans Equality Model Policy

## Why is a trans equality policy needed?

Many large organisations and a number of smaller ones have employees who are trans. A trans person who is supported at work is likely to be a happy and therefore more productive and loyal employee. Some will be transitioning in the workplace, and it is important to support these employees appropriately. It is far better to have a comprehensive trans equality policy in place than to hurriedly get one together when a member of staff informs the organisation that they are trans or a job applicant enquires about. Trans people should be protected from discrimination and harassment at all times, not solely when they are transitioning. Any policy must reflect that.

## What should a trans equality policy cover?

The policy should cover a wide range of topics – not solely focus on arrangements for when a person transitions. It should include:

- i. A statement of commitment from the organisation.
- ii. Definitions of terms used – with an acknowledgement that language can evolve quickly, especially around trans issues.
- iii. Information on the legal protections that trans people have, including the importance of respecting confidentiality.
- iv. Information on trans equality in recruitment.
- v. Where to go and what will happen if someone experiences or witnesses transphobic discrimination.
- vi. Advice on support for an employee transitioning at work;
- vii. Information about how trans equality will be promoted and monitored in the organisation; and
- viii. Support for those with a family member who is transitioning.

# Trans Equality Model Policy

Trade union reps are encouraged to use this trans equality model policy to negotiate and embed trans equality policies at their respective places of work, and within their own trade unions.

## i. Commitment to trans equality

<Organisation name> is committed to promoting equality, diversity, and good relations in everything it does – as a community leader, as a provider and commissioner of services, and as an employer.

<Organisation name> is committed to equality of opportunity for trans people throughout recruitment and employment, including supporting trans employees through any transitioning process. <Organisation> will not tolerate discrimination, victimisation or harassment on the basis of a person's gender identity, gender expression or trans status. <Organisation> seeks to provide a supportive environment for trans staff and to create a culture and environment where trans staff are able to thrive and are well supported during any process of transition.

The purpose of this guidance is to assist workplaces and trans employees in <organisation name> with practical information on workplace support.

## ii. Definitions

'Trans' or 'transgender' is used to describes people whose gender identity differs from that which was assigned at birth. The umbrella terms covers people who:

- are intending to undergo, are undergoing, or have undergone gender reassignment at any stage;
- identify as having a gender different from that which they were assigned at birth and are planning or have had medical interventions such as hormones or surgery;
- identify as having a gender different from that which they were assigned at birth, but who are not planning any medical intervention; and/or,

- are non-binary – that is, they are not solely male or female. They may define themselves as both, neither or something entirely different. They may or may not have medical interventions to align their body with their non-binary gender identity.

### **iii. Transitioning**

'Transitioning' is the process undertaken by a trans person in order to bring their gender presentation into alignment with their gender identity. This often involves dressing differently, using a different name and pronoun (e.g. she, he or they) and changing official documentation. It may involve various types of medical or surgical treatment, although this is not the case for all trans people.

<Organisation name> recognises there is no right or wrong way to transition and is committed to supporting each individual in their decision.

Employees who are transitioning at work

If an employee states that they are intending to transition at work, their line manager, in conjunction with other appropriate colleagues, should aim to make this process as smooth as possible. Managers should be aware that it can be an extremely difficult step for someone to approach their manager about transitioning. They are likely to worry about the response.

<Organisation is committed> to reassuring all staff that they will be fully supported and respected. The transition process will be led by the individual concerned.

### **iv. Communicating to colleagues and service users**

The manager and trans employee will discuss the individual's preferences in relation to informing others, including other managers, colleagues, service users and other relevant contacts. They will agree whether the employee will do this, whether they would prefer the manager or a work colleague to do this, or a mixture of these options. The employer will also get express written agreement from the trans employee about when and how this will happen, including the details of the message and who it will be shared with. Levels of disclosure may vary in detail for different types of contacts and will be agreed in advance.



## **V. Uniforms and dress codes.**

If a uniform is in place for the role, managers will ensure that the trans employee has access to the uniform that is most appropriate at all times. Managers will be flexible and will support the preferences of the trans person wherever possible.

Trans staff have the right to comply with any dress codes in a way that reflects their gender identity and gender expression.

## **VI. Changing facilities, toilets, and other single sex facilities.**

Trans people are entitled to use single sex facilities in accordance with their gender identity. For non-binary people, this might mean using gender-neutral or accessible facilities or using a combination of different facilities. However, trans people will never be required to use gender neutral toilets unless they wish to do so.

## **VII. Updating records.**

Electronic records will be updated in a timely manner, to coincide with the date on which the workplace transition begins. Care will be taken to ensure that records do not link back to the former name – this may entail creating a whole new email address rather than simply changing the name on the existing one, for instance. The manager and employee will work together to ensure that nothing is missed.

All forms of workplace identification such as security passes, name tags, and photographs if required will be issued, without any replacement cost to the trans employee. Paper records will be updated where possible. Those which cannot be updated – for instance, paper copies of references relating to the employee's recruitment – will be stored in a secure place, and clearly marked as only to be looked at by named persons.

## **VIII. Customer facing roles.**

There is no reason why an employee who is transitioning should not continue in a customer facing role. However, some people might prefer a period of redeployment during transition, or as a permanent change. Managers and HR will work with the trans person to find a solution that meets the needs of both the employee and the service.

## **IX. Attendance at appointments and time needed for treatment and surgery.**

Paid special leave will be given in order for employees to attend transition-related appointments and treatment.

These absences will not be counted in relation to absence monitoring, included in absences for references, taken into consideration for performance monitoring or, for instance, during redundancy procedures.

In addition, trans staff are entitled to the same sickness absence and pay as other staff. Many people have to travel a long distance for appointments, and these may be given at short notice. People may need reduced hours or duties, or other changes to usual working arrangements, for a temporary period following some treatments. Managers will be as flexible as possible to accommodate this.

## **X. Action plan or check list.**

The trans employee and their manager might find it helpful to put in place an action plan, or to agree a check list to clarify the actions that will be taken over the course of the employee's transition, dates by which these will be done, and the person who will take responsibility. Please see appendix 2 for an example, which can be modified to suit the individual's needs.

## **XI. Discrimination and abuse.**

<Organisation> has a zero-tolerance approach towards discrimination and harassment based on gender identity, gender expression or gender history. Inappropriate behaviour or language may constitute discrimination, harassment, bullying or victimisation. Discrimination including harassment, third party harassment and victimisation are covered by the Equality Act 2010. Managers are responsible for taking timely action where misconduct occurs on the grounds of an employee's gender identity, in line with the harassment policy. This will be monitored and followed up.

## **XII. Support available**

<insert here organisational support available – counselling services etc> Including in-work support services such as occupational health.

## **Trans Equality Model Policy: Legal protection for trans people.**

As noted earlier in this guide, trans people are protected by a number of legislative frameworks. A trans policy should make reference to the legal protections for trans people and this should be referenced when negotiating/supporting trans workers, and embedding trans inclusive policies.

### **Gender Recognition Act 2004**

The UK Gender Recognition Act (GRA) enables people aged over eighteen to gain full legal recognition for the gender in which they live. Applications are considered by the Gender Recognition Panel. Once a person receives a Gender Recognition Certificate (GRC), they are legally of that gender for every purpose and have all the rights and responsibilities associated with that gender. Although the current GRA is UK-wide, it's important to note that the GRA is a devolved matter and that devolved governments have committed to reforming the process of gender recognition.

Employment rights do not depend on whether a person has a Gender Recognition Certificate. Employers should not ask for a person's GRC and it should never be a pre-condition for transitioning at work. To make an application for a GRC, a person needs to show they have been living – and working - in that gender for at least two years. So being asked to show a GRC as a condition of changing employment details is like being asked to show a full driving licence before you can apply for a provisional one.

The Gender Recognition Act gives anyone applying for, or holding, a Gender Recognition Certificate particular privacy rights. It is a criminal offence to pass on information acquired 'in the course of official duties' about someone's gender recognition, without the consent of the individual affected. 'Official duties' include employment, trade union representation or supply of business or professional services.

### **Equality Act 2010**

The Equality Act 2010 (England, Scotland, and Wales) protects against discrimination because of gender reassignment in employment and service delivery. It bans direct and indirect discrimination and victimisation. There is similar protection in Northern

Ireland under the Sex Discrimination (Gender Reassignment) Regulations (NI) 1999.

The Act makes clear that it is not necessary for people to have any medical diagnosis or treatment to gain this protection; it is a personal process of moving away from the gender assigned at birth to the correct gender.

People discriminated against because they are wrongly perceived to be trans, or who are discriminated against because of their association with trans people or issues, are also protected.

## **Genuine Occupational Requirements**

In the vast majority of cases, the gender of a worker is of no relevance to their ability to do a particular job. However, the Equality Act 2010 does allow for an exception where being of a particular sex is an 'occupational requirement' of that post. If this is the case for an employee transitioning at work, they will be redeployed into a suitable position.

## **Recruitment**

People who have already transitioned have no obligation to disclose their gender history. Job applicants and interviewees will not be asked their gender during the recruitment process – it is not a relevant criterion in selection. There is also no obligation for a transgender person to disclose that they are trans as a condition of employment. If they choose to disclose, this is not in itself a reason for not offering employment, and non-disclosure or subsequent disclosure is not grounds for dismissal. Appointing officers who become aware that an applicant is trans will maintain full confidentiality in relation to this.

## **References**

Where a reference request is received for an existing employee who has transitioned, <organisation> will respect the employee's privacy and only respond using the employee's correct name and gender in the reference.

Disclosure on sickness absence will not include time taken off for medical appointments related to transition. This information is strictly confidential, and managers must be very careful of any record keeping.

## References

When <organisation> requests a reference, we will make the request using the prospective employee's name and gender since transitioning. We will not mention previous names or gender identity, unless specifically asked to do so (in writing) by the trans person.

## Criminal record checks/disclosure and barring

If the appointment requires criminal record checks, we will highlight to all applicants the confidential procedure available to trans people <insert relevant contact details e.g. for England and Wales, Scotland, or Northern Ireland confidential service>.

## Qualification certificates

<Organisation> recognises that it can be difficult and expensive for a trans person to change their qualification certificates. If these are in a former name then where possible a record will be made that the certification has been seen, but a copy will not be taken. If it is absolutely necessary for <organisation> to store a copy, they will be stored securely and only accessed by named persons.

## Professional registration

Roles and responsibilities

If the employee's job involves professional registration, we will check whether the registration body has a specific, confidential process for gender transition.

## Pensions and national insurance

Where pensions, national insurance contributions or other benefits are dependent on legal sex, trans people will be advised of the different implications of whether they do or do not have a Gender Recognition Certificate.

# Trans Equality Model Policy: Roles and Responsibilities.

## Employee

- Engaging with managers and HR around the logistics of transitioning in the workplace
- Reporting any instances of harassment, victimisation, or discrimination

## Manager

- Ensuring that colleagues are informed about the employee's transition in a manner that best suits the employee
- Maintaining confidentiality at all times
- Thoroughly investigating any instances of harassment, victimisation or discrimination
- Supporting the employee in any way that is necessary and appropriate.

## HR

- Ensuring that this policy is followed at all times.
- Maintaining confidentiality, including securing paper documents and files.

## IT Department / Support Services

- Changing names, titles and pronouns on email and other systems.
- Issuing updated security passes and ID badges.

## Learning and development

- Providing trans equality training as a general part of the equality and diversity/training programmes.

## Trade unions

- Supporting the employee if they experience harassment, victimisation, or discrimination.



- Discussing and agreeing any changes to this policy.

### Support for employees with a family member who is transitioning

If an employee is supporting a family member who is transitioning, they may need to take time off to attend appointments and treatment or give assistance following surgical procedures. Some of these may be at short notice and may involve travelling a long distance. Managers will be as flexible as possible to accommodate this.

## Trans Equality Model Policy: Promotion of Trans Equality at Work

As well as ensuring that trans staff are fully supported, <organisation name> will demonstrate our commitment to trans equality in the following ways:

- Ensuring that all training courses that are delivered are fully inclusive of trans people – this includes both face-to-face training and e-learning
- Marking important dates for the trans community, such as Trans Day of Visibility (31<sup>st</sup> March) and Transgender Day of Remembrance (20<sup>th</sup> November) & including trans people in publicity and marketing materials
- Ensuring that all forms and surveys are inclusive of trans people, including non-binary people for both staff and clients
- Including trans equality as a core part of the organisation's equality agenda and objectives
- Investigating fully all complaints of harassment, victimisation, or discrimination on the grounds of gender identity, gender history, trans status, or gender expression
- Monitoring the implementation of this policy.



# Trans Equality Policy – Action Plan

- ✓ Are there any temporary or permanent changes / reasonable adjustments to the role which should be considered to support the employee? Considerations should include security aspects such as lone working, night working.
- ✓ What will the employee's title and name be? What pronouns will be used? When will they start using these? Will there be any phasing?
- ✓ Are there any dress codes to be considered? Are new uniforms needed?
- ✓ Is any time off required? If so, how will this be managed? Consider flexible working methods, if appropriate)
- ✓ If applicable, how will single sex working requirements be managed?
- ✓ When and how should colleagues be informed of the transition?
- ✓ Is there any guidance material which the employee wishes to share with managers and colleagues?



# Signposting and useful links

## The Scottish Trans Alliance

[Scottish Trans Alliance](#) is the Equality Network project to improve gender identity and gender reassignment equality, rights, and inclusion in Scotland. The Equality Network is a leading Scottish lesbian, gay, bisexual, transgender, and intersex (LGBTI) equality and human rights charity.

## Time for Inclusive Education (TIE)

[TIE](#) is Scotland's LGBT Inclusive Education charity. They deliver LGBT inclusive education in schools and seek to embed an educational approach to tackling homophobic, biphobic, and transphobic bullying and prejudice in schools.

## LGBT Youth Scotland

[LGBT Youth Scotland](#) have support available for trans youth in Scotland between the ages of 13-25. There you can access emotional support, resources, guidance, and information. Contact [info@lgbtyouth.org.uk](mailto:info@lgbtyouth.org.uk) for more information.

## Mermaids

[Mermaids](#) supports transgender, non-binary and gender-diverse children and young people until their 20<sup>th</sup> birthday, as well as their families and professionals involved in their care. Mermaids offers support to enable freedom for young people to explore their gender identity, and helps families navigate the challenges they may face. Contact at [info@mermaidsuk.org.uk](mailto:info@mermaidsuk.org.uk)

## MindOut

[MindOut](#) is a mental health service run by and for lesbians, gay, bisexual, trans and queer people with experience of mental health issues. They work to improve the mental health and wellbeing of LGBTQ communities and to make mental health a community concern. This includes providing safe spaces for people to meet and support each other, helping people protect their rights and get their voices heard, and campaigning and creating conversations about LGBTQ mental health. Contact at [info@mindout.org.uk](mailto:info@mindout.org.uk).

## Rape Crisis Scotland

[Rape Crisis Scotland](#) offer free and confidential emotional and practical support, information and advocacy to women, all members of the trans community, non-binary people and young people who have experienced sexual violence at any time in their lives. This includes, rape, sexual assault, sexual abuse, childhood sexual

abuse, and commercial sexual exploitation. Contact the Rape Crisis Scotland helpline (6pm-midnight) at 08088 01 03 02 or text: 07537 410 027, or [support@ercc.scot](mailto:support@ercc.scot).

### **Galop (LGBTQ+ Domestic abuse)**

[Galop](#) supports all LGBT+ people ages 16+ who have experienced hate crime, domestic abuse, or sexual violence by providing advice, support, and help. Galop also has a dedicated Trans Advocacy Service which can offer confidential advice and support by telephone, email or face-to-face for people who have experienced violence, abuse, or transphobia. Contact at 0800 999 5428, Monday-Friday 10:00am – 5:00pm, Wednesday-Thursday 10:00am – 8:00pm.

### **Telephone and Web Chat Helplines**

You can contact the following national helplines for emotional support, resources, and information.

**LGBT Helpline Scotland** can be accessed by phone for those 16+, 0300 123 2523, available Tuesday & Wednesday 12-9pm, Thursday & Sunday 1-6pm.

**LGBT Foundation** is accessible by phone, 0345 330 3030, Mondays-Fridays 9am-5pm.

**Mindline Transline** can be reached by phone at 0300 330 5468, Mondays and Fridays 8pm-midnight.

**LGBT Switchboard** has an online chat available on their website and can be reached by phone, 0300 330 0630, available everyday 10am-10pm.

**Intercom Trust** is an LGBTQ charity which offers a helpline available at 0800 612 3010.

### **Trans-friendly counselling**

[Pink Therapy](#) are the UK's largest independent therapy organisation working with gender and sexual diversity clients. They aim to promote high quality therapy and training services for people who are lesbian, gay, bisexual, and transgender and others who identify as being gender or sexual diversities. To reach out, go to their [website](#) and fill in the form to find a therapist in your area.

# Conclusion

This guide has been developed with the aim of further equipping trade unionists with a greater understanding of trans people and how trade unionists can support trans people in the workplace. This guide should be used as an aide and assist on becoming a better ally to trans people. Reps should get in touch with their own unions about resources and training opportunities to further support trans members.

The STUC LGBT+ Workers' Committee strongly recommends that all trade unionists work and discuss trans equality with their own trade union and workplaces; and continue to take the opportunity to educate themselves on trans rights and equality.

Everyone deserves the right to a safe workplace free from all forms of intimidation, fear, bullying and harassment. Trade unionists play a critical role in helping to shape workplaces where all workers feel safe and equal and build trust with members that reps will be equipped to support and advocate for them.

The STUC LGBT+ Workers' Committee hope this guide helps to support trade unionists and that all trade unionists in Scotland will support the LGBT+ Workers' Committee and trade unions work on building trans solidarity and equality.

The STUC LGBT+ Workers' Committee will review this guidance annually and update accordingly.

Trans rights are human rights. Trans people are workers and trade union members too. Trans people belong in our trade union.

If you have any further information, please contact [info@stuc.org.uk](mailto:info@stuc.org.uk).

Solidarity!

