



Gender identity: awareness and actions for equality

The purpose of this briefing is to raise awareness about gender identity. The briefing covers what is meant by gender identity, including the protected characteristic gender reassignment. The briefing also identifies actions that UCU branches can call for employers to take in promoting and advancing equality for trans and non-binary people in the workplace.

What is gender identity?

1. Gender identity is how a person identifies their gender. UCU supports gender identity as the way a person self-defines their gender. This may match the sex registered at birth (i.e. man – male, woman – female) or not.
2. Trans and non-binary are terms most often used to refer to people who identify their gender as different to the sex registered at birth.
3. There are many terms for non-binary gender such as agender and genderqueer, and people will identify themselves according to the term that most closely captures their identity.
4. Non-binary people do not identify with the binary gender categories of man and woman. Non-binary people may also not identify as trans.
5. Trans people can identify with either of the gender binaries, and also as non-binary.

Gender identity and the Equality Act 2010 and other laws

6. People who decide to spend the rest of their life in a gender other than the one that matches the sex registered at birth are covered by the Equality Act 2010 under the protected characteristic of gender reassignment.¹
7. People who are assumed/perceived to be living in a gender that does not match with the sex registered at birth are also covered by the Equality Act 2010.
8. A person covered by the gender reassignment protected characteristic may or may not have had any surgery, may or may not be under medical supervision, and may or may not have any documents in the gender that they are living in.

¹ <https://www.equalityhumanrights.com/en/advice-and-guidance/gender-reassignment-discrimination>

9. From the time a person decides to live in the gender other than that which matches the sex registered at their birth they should be treated in accordance with that gender identity.
10. Anyone in the UK can change their name and use whichever name they choose provided this is not to defraud anyone. There is no legal requirement to provide written evidence of the name change².
11. A key concept in gender identity equality is respect. Respect is crucial to supporting trans and non-binary people. This includes respect for people's gender identity, for their right to work or study with dignity, for their name, preferred use of pronoun, and personal identity, for their privacy and confidentiality.
12. Under UK law people can change all their documents to recognise the gender they are living in, other than birth certificates. A Gender Recognition Certificate is required to change the birth certificate.
13. It is a criminal offence to pass on information about a trans person's legal gender recognition without their consent.

What should employers be doing?

14. Education providers in the post-school education sector have a legal duty under the Equality Act 2010³ to take active steps to prevent discrimination and harassment on the grounds of protected characteristics including gender reassignment.
15. The public sector equality duty of the Equality Act 2010 applies to all organisations that carry out a public function.⁴ This includes organisations in the post-school education sector. Section 3 of the public sector equality duty requires employers to demonstrate due regard for equality in all functions and day-to-day activities of the organisation.⁵ This duty covers all protected characteristics including gender reassignment.
16. Equality Impact Assessments (EIAs) 'are not required by law, although are a way of facilitating and evidencing compliance with the Public Sector Equality Duty.'⁶
17. Education providers should have specific policies and processes to support staff and students covered by the gender reassignment protected characteristic, including support for directly related hospital appointments and medical procedures for those

2 <https://www.thompsons.law/support/legal-guides-and-resources/how-to-legally-change-your-name>

3 <http://www.legislation.gov.uk/ukpga/2010/15/contents>

4 <https://www.citizensadvice.org.uk/law-and-courts/discrimination/public-sector-equality-duty/who-must-comply-with-the-public-sector-equality-duty/>

5 <https://www.equalityhumanrights.com/en/public-sector-equality-duty-scotland/public-sector-equality-duty-faqs>

6 <https://commonslibrary.parliament.uk/research-briefings/sn06591/>

undergoing the medical process of gender reassignment, as well as policies for name and gender record alteration.

18. Equal opportunities, recruitment and anti-bullying and harassment policies should make specific reference to gender reassignment, and it would be good practice to broaden that to gender identity equality.
19. Gender identity equality should be included in all induction and training, including staff and student handbooks.

Equality monitoring

20. Monitoring should be anonymised and confidential.
21. Gender monitoring questions can be asked in the format of woman, man, other (with a free text box so that a person can identify using their own terms).
22. Sex monitoring questions can be asked using the terms female, male, other (with a free text box so that a person can identify using their own terms). This also allows for intersex people to self-identify. The Equality Act does not include intersex as a protected characteristic.
23. Including other and prefer not to say boxes can help an organisation avoid 'dead-naming' or misgendering a person who is covered by the gender reassignment protected characteristic but may not have completed their medical transition and/or fully updated their records in the organisation.
24. A question such as 'does your gender identity match the sex registered at your birth?' can be included for monitoring purposes.

It is recommended that to achieve the best results in gender identity equality education institutions, students' unions and trade unions should:

- i. actively involve trans and non-binary staff and students, and
- ii. engage with local equality networks and national partner organisations.

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