

# Scottish Government Trans and Non Binary Equality and Inclusion Policy

Throughout this document, we will use transgender or trans as equivalent inclusive umbrella terms to refer to anyone whose gender identity or expression does not fully correspond with the sex they were assigned at birth. **This includes but is not limited to trans men, trans women, non binary, genderfluid or genderqueer colleagues.** We know that not all non binary colleagues consider themselves trans, but the policies, principles, commitments and protections outlined in this document are still relevant to those individuals. Transitioning is a process in which colleagues may take steps to affirm their gender, including non binary genders, and will mean different things to each individual.

## 1. The Purpose

The Scottish Government (SG) and its agencies and Non-Ministerial Departments are committed to creating a working environment that is inclusive and safe for all staff, including on the basis of the protected characteristics in the Equality Act 2010<sup>1</sup>.

SG's vision is to be a world-leading, diverse employer where colleagues can be themselves at work. We are committed to giving all our colleagues the opportunity to shine and to nurturing talent at all levels with a diverse workforce reflective of the communities we serve. We will foster an inclusive workforce culture which values the contribution of staff from all backgrounds because we know a more inclusive workplace is more productive and innovative.

Trans and non binary people are protected from discrimination as part of the characteristic of "gender reassignment" and / or "sexual orientation", as defined in the Equality Act 2010.<sup>2</sup>

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<sup>1</sup> See Annex A for explanation about the Equality Act 2010

<sup>2</sup> Sexual orientation aggravated crime is the second most commonly reported type of hate crime according to the COPFS data for Scotland for 2021/22, with the number of charges reported rising by 10% in 2021 – 2022. There has been an 87% increase in transgender identity related hate crime in the same period. The results of the People Survey 2021 shows that this pattern of negative experiences is reflected in the Inclusion and Fair

**The purpose of this specific policy is to set out how the Scottish Government will support all colleagues to ensure that trans staff experience both equality of opportunity, and equitable, respectful and dignified treatment in the workplace.**

It also sets out how the organisation will support a colleague in the workplace during their transition.

**Please note that all existing Scottish Government and Civil Service policies, procedures and expectations relating to staff behaviour and conduct at work apply without exception to staff behaviour and conduct towards trans colleagues in SG.**

## **2. The Scope**

The Trans and Non Binary Equality and Inclusion Policy applies to;

- all SG Main and Marine staff working in Scottish Government core, and executive agencies and non-ministerial offices that are part of the Scottish Government Main/Marine Bargaining Unit.
- This includes senior civil servants, civil servants in Bands A to C and special advisers, whether on permanent or fixed term contracts, and those on graduate training schemes.
- The policy applies to staff regardless of length of service and continue to apply to those Scottish Government staff on secondment or loan out with Scottish Government Main and Marine.
- While this policy applies across the SG Main bargaining unit, executive agencies and non-ministerial offices (NMOs) may have local procedures in place to reflect local contact points and, for NMOs, their status as a direct employer of staff. References to Scottish Government in this policy should be read as references to individual bodies.

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Treatment scores for trans and non binary colleagues in our workplace; Transgender / other score for Inclusion and Fair Treatment is 67.6% compared to 86.4% for SG core, and 87.8% for Cisgender. This evidence suggests that there is still significant progress to be made within the organisation to improve outcomes for transgender and non binary colleagues.

- If you're not directly employed by, but working in or providing services to Scottish Government, for example as a contractor or on secondment to Scottish Government, we expect you to adhere to our standards of behaviour. You should however, look to your own employing organisation's policy if you wish to, for example, to raise a grievance about unacceptable behaviour.

The principles, commitments and protections set out in this policy and associated procedure apply to all staff, including those who:

- Are proposing to undergo, undergoing or have undergone a process (or part of a process) to reassign their sex by changing physiological or other attributes of sex. These staff have the protected characteristic of gender reassignment under the Equality Act 2010, whether or not they identify as trans;
- Are trans, or have a trans history;
- Are non binary;
- Are genderfluid or genderqueer;
- Are intersex or have VSC/DSD, whether or not they identify as trans.

An employee does not need to hold a Gender Recognition Certification in order to be covered by the principles, commitments and protections set out in this policy and procedure and the Scottish Government will not request to see a gender recognition certificate at any stage of recruitment or employment.

### **3. Policy Principles**

We are committed to ensuring that our trans and non binary colleagues are valued for who they are, for the perspectives that they bring and for the contribution they make to delivering for the people of Scotland.

**Our commitment to enhancing trans equality and inclusion directly supports our vision of being more open, capable and responsive. Underpinning this approach is a belief that everyone, including our**

**trans colleagues, has a right to equality of opportunity, to receive no less favourable treatment, and to be treated with dignity and respect in a workplace free from bullying, harassment, discrimination or victimisation.**

Specific principles which underpin this policy and procedure are that:

- **Every** member of staff transitioning will be treated in a sensitive and supportive manner.
- **Every** member of staff who transitions has the right to workplace adjustments to processes and systems at work in order to meet their individual needs
- All information relating to transitioning is personal and must be kept confidential – a person’s trans status will be kept in the strictest confidence in line with their wishes and legislation.
- Clear and detailed procedure is essential in supporting staff and managers to use this policy.

## **4. The Policy**

### **4.1 Confidentiality**

**The Scottish Government and its staff will not disclose any information, to any internal or external audience, relating to whether an individual is trans under any circumstances unless it obtains their written consent to do so. This includes direct or indirect disclosure at any stage of their transition.**

This is a responsibility at both an organisational and individual level. Disclosure of this information without consent will be considered a breach of section 22 of the of the Gender Recognition Act and could lead to action under the disciplinary procedure. Further information on this can be found in the Confidentiality section of the Guidance which accompanies this policy and examples of misconduct together with expectations of behaviour can also be found on Saltire.

## 4.2 Bullying, Discrimination, Harassment And Victimisation

**There will be no tolerance of any bullying, discrimination, harassment or victimisation directed towards trans members of staff, or on the grounds of gender reassignment as defined in the Equality Act 2010 or gender identity.**

4.2.1 The Scottish Government is committed to providing a workplace free from unlawful discrimination, bullying, harassment and victimisation, and to fostering an inclusive workplace which values staff of diverse backgrounds and identities. This is a commitment to all staff in the organisation, at all levels.

4.2.2 Complaints of bullying, discrimination, harassment, victimisation or any other form of unacceptable behaviour on the grounds of an employee's gender identity or transition will be taken seriously under the Grievance Policy. This will include being investigated, and may result in disciplinary action being taken which could lead to dismissal.

4.2.3 This applies to actions that are directly and indirectly discriminatory. It also applies to discrimination by association or perception. This means actions taken towards an individual who is associated with a trans colleague, or actions taken towards someone who is perceived as trans, can be considered under anti-discrimination legislation and policy. Discrimination by association or perception is unlawful under the Equality Act 2010. Definitions of these forms of discrimination can be found on in SG's Standards of Behaviour.

4.2.4 Further information on examples of trans related discrimination can be found in the resources set out in the procedures.

### **4.3 Absence Management**

**Absences during transition will be sensitively considered and managed by line managers and the HR People Advice and Wellbeing Team, in accordance with organisational values and legislative requirements.**

Further information on how to record and manage absences for trans colleagues can be found in the Procedures section of this Policy.

### **4.4 Inclusive Language**

**SG has a commitment to using appropriate language, including non-gendered language, whenever possible, including in policy and other Government communications.**

## **5.0 Responsibilities**

### **5.1 As an employer, Scottish Government will take action to:**

- Create a culture and safe working environment that encourages respect and dignity, values diversity and promotes inclusion and understanding of trans staff.
- Review and monitor the impact of corporate HR policy, in line with the Council of Scottish Government Unions' Partnership Agreement, and EQIA process to ensure that it reflects best practice approaches to supporting trans and non binary staff, removing any barriers that prevent staff from accessing support from the employer.
- Provide clear routes and mechanisms for trans colleagues to influence Scottish Government workplace strategies, policies and processes to ensure that they reflect and meet diverse needs. Existing routes include via the Network Support Strategy, LGBTI+ Staff Network Co-Chairs, and Trade Union representatives.
- Provide training and other learning opportunities to staff to increase awareness and understanding of the issues faced by trans colleagues. This includes a commitment to further develop

opportunities for staff to learn more about terminology, processes and Scottish Government policy to support trans colleagues.

- Provide support and guidance to staff to become active allies of trans colleagues.
- Ensure that all SG policies and procedures relating to expectations of staff conduct and behaviour, including the Standards of Behaviour Policy and the Grievance Procedure explicitly include respect for trans colleagues.
- Communicate the expectation that staff will take appropriate action to address bullying, discrimination, harassment or victimisation on the grounds of gender identity, expression or reassignment under the appropriate policies.

## **5.2 All Staff will take action to:**

- Behave respectfully towards trans colleagues, and take action to ensure that trans colleagues are treated with dignity, in accordance with the SG Standards of Behaviour.
- Use their colleagues' names and pronouns, and act on any changes communicated in relation to those names or pronouns.
- Respect their colleagues' right to confidentiality and right to decide if, when and how any changes regarding personal information are communicated.
- Treat trans identities, previous names, and transition-related activities including but not limited to medical treatment as special category personal data under the Data Protection Act 2018 and as defined in section 22 of the Gender Recognition Act.
- Familiarise themselves with this policy and the associated procedures.
- Model and uphold our organisational values as defined in 'In Service of Scotland' and those specific duties defined in our Standards of Behaviour.

- Take action to challenge trans related bullying, discrimination, harassment or victimisation.
- Use identified channels to challenge any bullying, discrimination, harassment, victimisation or any other unacceptable behaviour towards all colleagues, including trans colleagues.

### **5.3 Managers and counter-signing officers will take action to:**

- Support and contribute to the creation of an environment and culture of respect and dignity within teams by valuing diversity, promoting understanding, and developing a pattern of listening to and valuing all voices within their teams.
- Access learning opportunities, where required, to increase their awareness of trans issues and Scottish Government policy as it relates to trans staff.
- Actively seek and maintain an open and collaborative dialogue with individuals to understand their needs and any support or reasonable adjustments they require, ensuring that they respond flexibly to these needs and the wishes of the individual, seeking advice from People Advice on implementation and review of adjustments. The Employee Passport may be a useful tool to do this.
- Address swiftly any evidence of discrimination, bullying harassment, victimisation or any other unacceptable behaviour towards the individual in line with our Standards of Behaviour and Grievance policies.
- Make clear the approach for dealing with absences from the workplace associated with transitioning, supporting the individual in a sensitive and confidential manner. Further details can be found in the Procedures section of this Policy. Details of the Attendance Management Policy can be found on Saltire.
- Keep accurate and confidential records.

- Be guided by appropriate medical advice given by the employee's doctor, consultant or the Scottish Government Occupational Health Adviser via their People Advice and Wellbeing (PAW) Manager.
- Keep in touch with the employee and be guided by their wishes how to communicate their transition. A sample communication plan template is provided in the annex.

#### **5.4 The Diversity & Inclusion Team will take action to:**

- Advise on all aspects of this policy.
- Coordinate future reviews and refreshes of the policy.
- Lead on implementation of the policy and monitoring of its impact.
- Seek engagement with the LGBTI+ network and LGBTI colleagues to ensure lived experience contributes to the creation and planning of learning opportunities and other D&I led activities.

#### **5.5 The People Advice and Wellbeing Manager will take action to:**

- Support employees wherever possible in respect to changes of personal records or other Scottish Government systems including changing names, recorded gender and passes.
- Seek Occupational Health advice as and when necessary.
- Follow steps as identified in the policy and procedure on maintaining confidentiality of individuals transitioning.
- Keep appropriate records and ensure these are suitably stored and protected.

## **5.6 LGBTI+ Allies and Senior Champions, DG Ally and Perm Sec will take action to:**

- Encourage the embedding of this policy across the Scottish Government.
- Be visible and vocal role models, widely recognised as supporters and champions of transgender staff.
- Actively promote the principles of this policy and procedures, and embed these in their own practice.
- Tackle prejudice against and promote understanding of trans issues.
- Facilitate, participate in and promote training opportunities in relation to trans inclusion and equality.

## **5.7 Council of Scottish Government Unions (CSGU) will take action to:**

- Provide initial support to trans and non binary members by signposting them to the relevant policies and procedures, and sources of peer support within the individual unions, SG and external organisations where required.
- Provide professional support, advice and representation to members experiencing issues in the workplace.
- Engage with the HR People Advice and Wellbeing team to offer assistance in identifying appropriate action to resolve issues.
- Work in partnership with the employer to ensure consistency of support and provision for trans and non binary colleagues across all HR policies, making improvements and sharing lessons learned where appropriate.

## **5.8 HR Business Partners will take action to:**

- Advise staff and line managers on the policy and procedures and signposting to relevant guidance and support mechanisms.
- Maintain the confidentiality of any member of staff who is transitioning or who has transitioned, in line with our policy and procedures.

## **6.0 Support**

### **6.1 Principles of Support**

The Scottish Government is committed to providing the best support possible for all trans members of staff. This includes:

- Supporting the growth of the LGBTI+ network as a source of support to trans colleagues. This includes supporting the network to provide a forum where trans staff can meet other LGBTI+ colleagues, discuss important issues with peers and attend relevant events.
- Supporting a LGBTI+ Allies network to allow those who wish to support LGBTI+ colleagues to meet and create safe spaces for conversation and action.
- Appointing LGBTI+ and Allies Champions at a senior level in the organisation who will serve as a proactive lever for change in the organisation.
- Implementing the commitment to using trans inclusive language, including non-gendered language, including in policy and other Government communications.
- Aiming to provide access to gender neutral facilities in all buildings within Scottish Government.
- Ensuring that where a dress code is stipulated in SG, its agencies or Non-Ministerial Departments, it will be gender neutral. Further

information for core and non-core SG colleagues can be found in the procedures section of this policy.

## 6.2 Avenues of Support

### Internal

- The LGBTI+ Staff Network – provides a safe and private space for colleagues who identify as lesbian, gay, bisexual, trans (including non binary) or intersex.
- SG LGBTI Allies Network – a forum for colleagues of any sexual orientation and gender identity working in the Scottish Government and seeking support on LGBTI matters or wishing to support LGBTI equality and inclusion.
- The Employee Assistance Service (EAS) provides confidential, professional support and guidance to colleagues employed by the Scottish Government and their families, who are experiencing emotional, practical, health and social problems. EAS can provide emotional and practical support on a range of issues through trained welfare and counselling practitioners offering independent and unbiased information and guidance. Call free on 0800 587 5670. The helpline is open 24 hours a day, 365 days a year. The EAS can refer staff to 1-2-1 counselling support, accessed through the member of staff calling the EAS helpline.
- SG Agencies may provide their own counselling and wellbeing services.
- The SG also has in-house People Advice and Wellbeing Service Managers who can be contacted through the [PeopleAdviceandWellbeingCounsellors@gov.scot](mailto:PeopleAdviceandWellbeingCounsellors@gov.scot) mailbox or HR Counselling and Wellbeing mailbox for arranging appointments.
- If you are a member of a Trade Union you can seek support, advice and representation from your local trade union representative. Many Unions also have their own Diversity Networks that provide a safe space to share experiences and help develop union policy and campaigns.

## External

Information and advice is also available from:

- Civil Service LGBT+ Network
- Equality Network
- a:gender:
- Scottish Trans Alliance
- LGBT Youth Scotland
- Stonewall Scotland
- LGBT Health and Wellbeing
- LGBT+ Switchboard

## ANNEX A: Legislation

The rights of trans people are also protected by UK and Scottish law. The relevant legislation is below. To understand the protections afforded to trans staff, please consult the policy above.

- **Gender Recognition Act 2004** (as amended)

The **Gender Recognition Act 2004** allows some trans people to obtain a Gender Recognition Certificate (GRC). This records that the person named on the certificate is identified in law as being the gender as recorded on the GRC. The law will then recognise them as having all the rights and responsibilities appropriate to a person of their affirmed gender. Trans people who have not obtained a GRC may have transitioned socially, with many of their identification documents (including Government-issued documents such as passports and driving licences) reflecting this. However, a GRC is required for the trans person to be issued with a birth certificate in their lived gender. Without a GRC, a trans person will have a legal gender which is not consistent with how they lead their lives. The Scottish Government does not require a GRC to recognise a person as trans (except in very limited circumstances, for example where the Gender Representation on Public Boards (Scotland) Act applies.

- **Equality Act 2010**

The key piece of legislation that protects people against discrimination is the **Equality Act 2010** (the 2010 Act). The 2010 Act provides a strong legislative framework to combat discrimination in areas of life such as employment, education, access to goods and services, the exercise of public functions and membership of clubs and associations.

There are nine characteristics that are protected by the 2010 Act: age; disability; gender reassignment; marriage and civil partnership; race; religion or belief; pregnancy and maternity; sex, and sexual orientation.

The 2010 Act states that 'a person has the protected characteristic of gender reassignment if the person 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.'

Under the 2010 Act, there is no requirement for a person to have had any medical procedure or treatment in order to have the protected characteristic of gender reassignment. There is no requirement for a person to have a Gender Recognition Certificate in order to have the protected characteristic of gender reassignment.

- **The Data Protection Act 2018**

Personal data is information that relates to an identified or identifiable individual. Personal data may also include special categories of personal data. Even though trans status is not specifically listed as special category, similar rules and safeguards as for special category data should be implemented for processing all data relating to transition, to deal with the particular risks associated with it. Further information on the treatment of special category data under data protection legislation is available on Saltire

- **Human Rights Act 1998**

The **Human Rights Act 1998** (the Human Rights Act) is UK Government legislation that gives direct effect in the UK to the rights and freedoms guaranteed under the European Convention on Human Rights (ECHR), applies to everyone in the UK, and protects people's civil and political rights.

One key element of the Human Rights Act in terms of ensuring protection for trans people is on the basis of their right to a private life guaranteed under Article 8 ECHR.

## ANNEX B: Definition of Terms

Below are definitions of terms used throughout this document.

**Cisgender/Cis** is a descriptor for colleagues who do identify with the sex assigned at their birth. Not everyone who identifies with their sex assigned at birth uses this word to self-describe. A person's self-description should be respected above any guidance in this document.

**Equality Act 2010** – legislation which prohibits unlawful discrimination, harassment and victimisation on the grounds of nine protected characteristics, including gender reassignment.

**Gender affirming** is a way to describe actions that support someone's gender identity. This can be something that a person does, for example by wearing clothing that corresponds with their gender identity. This can also be something that colleagues do, for example by using names and pronouns that respect a colleague's gender identity.

**Gender dysphoria** is a term used to describe the discomfort or distress that some colleagues experience when there is incongruity between their gender identity and their sex assigned at birth. Gender dysphoria can be made worse if colleagues are treated in ways that ignore their gender identity or misgender them. Not all trans colleagues experience gender dysphoria or are comfortable with this term.

**Gender expression** is a person's outward presentation of their gender identity.

**Gender identity** is a person's innate sense of their own gender. It is different from **sexual orientation**.

**Gender reassignment** is the legal term for transitioning in the Equality Act 2010. Under the Equality Act 2010, colleagues who are proposing to undergo, are undergoing, or have undergone a process (or part of a process) to reassign their sex by changing physiological or other attributes of sex have the protected characteristic of gender reassignment.

In the guidance which accompanies this policy we have used either transition / transitioning or gender affirming / affirmation as these terms are often more inclusive. However, in this policy there are instances where we may use the term gender reassignment to align with the terminology around protections afforded under the Equality Act 2010.

**Gender Recognition Act 2004** – legislation which enables some trans colleagues to legally alter their birth certificate so that they can enjoy specific rights and responsibilities appropriate to their gender identity. For more information see Section 3 Legislation.

**Gender Recognition Certificate** – A Gender Recognition Certificate (GRC) can be applied for under the Gender Recognition Act. A GRC means that a trans person's lived gender becomes their legal sex for all purposes, and provides them with enhanced privacy protections. This means that a trans person who holds a GRC is protected by Section 22 of the Gender Recognition Act.

Trans colleagues who have not obtained a GRC may have transitioned socially and can still have many of their identification documents (including Government-issued documents such as passports and driving licences) changed to reflect this. However, a GRC is required for the person to be issued with a birth certificate in their lived gender.

An individual does not need to hold a GRC in order to have their details changed on workplace systems, and colleagues will not be asked by SG for a GRC at any point in their employee journey.

**'Intersex', 'Variations in Sex Characteristics', 'Differences in Sex Development'** are terms for colleagues born with any of several variations in sex characteristics including chromosomes, sex hormones or primary sex characteristics that, according to the Office of the United Nations High Commissioner for Human Rights, "do not fit the typical definitions for male or female bodies". A person's self-description should be respected above any guidance in this document.

**Non binary** is a descriptor for colleagues who have a gender identity that is not exclusively male or exclusively female. Other terms to describe non binary genders are genderqueer, genderfluid, or agender among many others. Non binary colleagues may express their gender in a variety of ways, including matching the sex assigned to them at birth, or completely different from it. A person's self-description should be respected above any guidance in this document.

**Pronouns** are a part of speech used as substitutes for nouns or noun phrases. A common use would be for referring to a person instead of their name, for example you, I, he, she, and they. Everybody has pronouns. Sometimes transitioning includes changing pronouns.

**Transitioning** is a process in which colleagues take steps to affirm the gender they identify as. This transition may involve all, some or none of the following procedures: changing names, changing pronouns, changing their appearance, changing their hairstyle, dressing differently, undertaking medical treatment, undertaking surgical procedures or obtaining legal certification of their gender. Transitioning is not always a continuous process and may have no defined start or end.

**Transgender/Trans** is a descriptor for colleagues who don't fully identify with the sex assigned at their birth. The shortened adjective 'trans' is used for a range of identities, including trans men, trans women and non binary colleagues. A person's self-description should be respected above any guidance in this document.

# Scottish Government Trans and Non Binary Equality and Inclusion Procedures

## 1. Our Trans and Non Binary Inclusion and Equality Procedures

This collection of procedures explain actions that;

- Trans colleagues can take to communicate transition in the workplace.
- Managers can take to support transition in the workplace.
- PAW Managers and HR can take to support a transition in the workplace.

References to Scottish Government in this policy should be read as references to individual bodies and their local HR teams where appropriate.

## 2. Making a workplace transition as a member of staff

### 2.1 Communicating to your Line Manager your plan to transition in the workplace

As a trans colleague, you can choose to socially transition in the workplace at any point in your transition . Your main responsibility in this process is to *start* a conversation with a manager to communicate that this is your plan. This will allow your manager to provide support and take action. Where an employee does not wish to disclose their transition or gender identity to their line manager they can contact their People Advice and Wellbeing Manager who will arrange for the necessary changes above to be made. Information on [identifying your PAW manager](#) can be found on Saltire. You may wish to use the [Employee Passport framework](#) to facilitate any changes you require in the workplace.

Before initiating a discussion you should;

- Request a meeting with your line manager.
- Mention to your line manager that you would benefit from the informal support of a colleague, Trade Union representative or LGBTI+ staff network committee member when you have this conversation, if this is the case.
- Familiarise yourself with the rights and responsibilities of all attendees as set out in this policy.

## **2.2 Expectation of Confidentiality**

Any information shared in meetings will be treated and stored confidentially by your manager. This means that your manager will not share this information with other staff unless they have your explicit consent to do so. Consent should be recorded in writing and stored in an appropriate manner. Information on gender history is considered protected data under the [Data Protection Act](#).

## **2.3 Communicating your Transition to Colleagues**

If you are content for colleagues to be told, then your Manager should discuss with you how this will be done and agree a communication plan to ensure you are in control of this process.

An example of a communication plan template is included in Annex C.

## **3. Supporting and facilitating a workplace transition if you are a manager**

**The manager will be supported in taking all the steps described below by their PAW Manager, who in turn can access support from the Diversity and Inclusion Team. To access this support the manager should take the following steps;**

- Inform the trans colleague that you are doing so, and state who you will be talking to. Explain that you will not be sharing individual or identifying information unless the colleague explicitly gives consent to do so.
- Contact your team's PAW Manager directly to request support if required from People Directorate.

- The PAW will coordinate support from People Directorate, and can bring in the D&I team as needed.

### **3.1 Facilitating a safe conversational environment.**

Managers should consider a range of options for having a conversation about transition. Consideration should be given to;

- Venue (building and appropriate location in the building)
- Mode (face to face / digital)
- Timing
- Participants (support for the colleague, and / or the manager).
- Specific discussion should take place with the trans colleague to establish whether they would prefer to be supported informally in any conversation by a colleague, Trade Union or Network member.

Details on further considerations when having a sensitive conversation can be found on Saltire and Pathways.

### **3.2 Developing a communication plan in collaboration with the colleague.**

A communication plan can be a useful tool to support how a transition is communicated in the workplace. An example Communication Plan is in Annex C.

The communication plan is a non-exhaustive and non-prescriptive outline of areas that an individual and their manager may want to cover when developing a communication plan in relation to making a transition in the workplace. The individual wishes of the person transitioning should be central to the plan, and the examples in this document are for illustrative purposes only. A manager should follow their employee's lead on when, how and where the conversation regarding their transition at work takes place.

A person who has already began their transition, (for example changed their name or pronouns) prior to starting a role may choose not to communicate anything about their transition to their colleagues. Please refer to the definition of transitioning as detailed in the Trans Equality and Inclusion Policy.

This may not be a single conversation and plans may need to be updated or modified as their colleague transitions. The employee may want support from a friend, colleague, or member of the LGBTI+ network committee to assist with this conversation.

### **3.3 Feeling informed and supported.**

Managers should also take steps to familiarise themselves with this policy and procedures before holding a conversation. Managers can seek advice and support on the content of the policy from the People Directorate D&I Team. General queries on the policy can be sent to the [D&I Team Mailbox](#) Advice on supporting the individual staff member can be sought from the team's [PAW Manager](#).

Managers can request in-meeting support if the trans colleague consents to this. This request should be made through your team's PAW Manager, who will coordinate this support.

### **3.4 Supporting a trans colleague after transition**

#### **3.4.1 Role model use of new name and pronouns**

It is important for a manager to take a positive role in using any new terms identified as part of the communication plan. Examples include actively using new names and pronouns, supporting their team to use these, and correcting mistakes in usage. Examples can be low-key and short, for example:

“He will change the document”.

“Oh, you mean she/[new name]. Yes, she [continue discussion of work task].”

Managers should also challenge persistent or purposeful misgendering as part of general staff anti-discrimination responsibilities.

#### **3.4.2 Be alert to harassment and discrimination**

You need to consider the welfare of the employee both during transition or change to gender expression and afterwards. It is unlawful to discriminate against or harass someone because of actual or perceived

gender reassignment (note: in the Equality Act gender reassignment is a personal not a medical process). You must therefore be aware of potential incidents of discrimination or harassment (which hopefully will be unlikely) and understand how best to handle any incidents in the workplace.

Some examples may include:

- Exclusion from departmental activity;
- Deliberately using the old name of employee (if this has changed);
- Misgendering intentionally. E.g., intentionally calling the employee “he” instead of the “she” pronouns the employee uses;
- Name calling or use of slurs;

There are other forms of discrimination and/harassment, this is not an exhaustive list and merely to be illustrative of some types of transphobic behaviours.

### **3.5 Managing absences related to transition.**

#### **3.5.1 Recording Absences on e-HR**

*It's unlawful to discriminate against people in the workplace on the basis of gender reassignment or gender identity as protected characteristics under the Equality Act 2010. A colleague who has a higher level of sick absence directly because of their transition shouldn't be discriminated against. There are two situations where absence from work will be sensitively considered and managed – either in relation to transition related medical appointments, or, where an employee is unfit to work, as sick absence.*

Absences for transition related medical appointments (including but not limited to doctor / hospital appointments and preparations for outpatient treatment) should be recorded as a 'Miscellaneous' absence on the flexi system *in the normal manner* with the reason being doctor or medical appointment. Absences from work for transition-related medical appointments *will not be* counted towards overall absence and trigger points.

Any other absence due to transitioning where the employee is unfit to work will be treated as sickness absence and recorded in

the normal manner on e-HR. Sickness absences directly relating to transitioning will be taken into account by the HR PAW Manager when considering overall levels of absence and trigger points. This is true whether or not the colleague has told you about their transition.

For further information please refer to the attendance management guidance on Saltire.

*As with usual standard procedures, you should open the employee's absence on e-HR and ensure that any fit notes or other paperwork covering absences relating to transitioning are forwarded promptly to the HR Shared Service Centre for action. In addition, fit notes for transition related sick leave do not need to specify detail of the procedure, e.g. the medical practitioner may wish to describe the cause of absence as "operation" rather than "transition-related surgery".*

*Managers should consult with their People Advice and Wellbeing Manager (PAW Manager) if they have any concerns or wish to discuss matters about the absence, or proposed absence, in relation to a member of staff transitioning, or if they wish to raise points in relation to the operation of the policy and this guidance.*

### **3.5.2 Performance Management**

Colleagues who are transitioning are subject to the standard performance management policy. It is unlikely that transitioning will affect the colleague's performance, particularly once any workplace adjustments have been made.

In line with existing SG Policy on performance management, All periods of absence resulting from transitioning will not be considered when reviewing poor performance issues or count as poor attendance.

Specific advice and guidance on performance management for probationers can also be found on Saltire.

### **3.5.3 Statutory Sick Pay Entitlement**

Staff who are absent for reasons related to transitioning may be entitled to Statutory Sick Pay and the Scottish Government contractual sick pay scheme which tops up Statutory Sick Pay payments in the normal manner. This scheme applies to all staff employed on a fixed term or permanent basis and who are in receipt of a regular monthly salary. For further information please refer to guidance on Saltire.

## **4. Making Changes in the Workplace.**

Managers, PAW Managers, and the colleague who is transitioning should work together to ensure that any practical changes to the workplace are made in a timely and sensitive manner. Managers and the PAW Manager will ensure that the following considerations are made;

### **4.1 Corporate Records**

There are various workplace systems that will need to be changed to reflect the trans colleague's identity as appropriate. The manager and the trans colleague should work together to start this process by creating a comprehensive list of all records that will require amendment as a result of the transition. These include (but are not limited to);

- E-HR
- Flexi System
- eRDM
- E-mail
- Teams
- Licenced software
- Staff Directory
- Payroll
- Pension Records
- Micase
- Easebuy

Additional information can be found on Saltire. The Manager, together with the PAW Manager should then coordinate the following actions;

- 1- Identify the mechanisms by which the record can be changed, and who has the authority to do this. More information on this can be found in APPENDIX E.
- 2- Develop a plan of action to make or request these changes in collaboration with the trans colleague.
- 3- Ensure confidentiality is maintained throughout.
- 4- Liaise with the relevant departments, including IT.
- 5- Monitor and confirm when a change has been made.

Once an employee has completed their transition in the workplace, any information relating to this/containing references to any previous gender or previous name should be removed from e-HR unless there is an essential reason for keeping it that can be proportionately justified or the employee consents to its retention. Details on how information should be stored on e-HR and who can see it can be found on Saltire. If information is to be retained, access should be restricted to the minimum number of colleagues who require access for a specific purpose in connection with a specific official duty.

Any documentation explicitly mentioning issues related to transition should be uploaded as 'documents of record' via the HR Online – sensitive issues tile.

## **4.2 Change of duties**

A member of staff transitioning may request to have a change in their duties, but they should not be expected or required to do so. Staff will be supported to remain in their current role - for example, adjustments could be made if they need to avoid heavy lifting following surgery, or request to be moved from a public-facing aspects of their role, but wish to stay in their current role. Such a request will be considered by the PAW Manager and the manager, in line with the business needs of the organisation.

### **4.3 Change of uniform**

If an employee is transitioning and they are in a public-facing role which requires them to wear a uniform, they may need to arrange a new or alternative choice of uniform with their manager if they would prefer to do so. Examples of such roles include Front of House, Mail Room, GCS drivers. Uniform options can be discussed as part of an individual's communication plan.

### **4.4 Changes to Name Badges and Security Passes**

If a colleague is transitioning in the workplace they may wish to request a new security pass which reflects their new name and an updated photograph. This request can be scheduled as part of the changes to workplace systems.

Updates to security passes can be requested from the [security and business continuity team](#) when required. Additional information on security passes can be found on [Saltire](#).

### **4.5 Security clearance processes**

Different roles / responsibilities in SG may require different levels of security clearance. Current levels are;

**Baseline Personnel Security Standard (BPSS).** All SG staff are subject to this level of clearance. Changes to gender are not relevant to this level of checks. Information on this process can be found at [Disclosure Scotland's](#) dedicated website.

**Counter Terrorist Check Clearance (CTC).** A few hundred staff are subject to this level of clearance. Information on how this process is handled when a colleague's gender has changed can be sought from [SGnationalsecurityvetting@gov.scot](mailto:SGnationalsecurityvetting@gov.scot).

**Developed Vetting Clearance (DV).** Limited numbers of staff are subject to this level of clearance. Information on how this process is handled when a colleague's gender has changed can be sought from [SGnationalsecurityvetting@gov.scot](mailto:SGnationalsecurityvetting@gov.scot).

## 4.6 Use of Scottish Government facilities

Trans staff should choose to use the facilities they feel most comfortable with, including using accessible toilets if they prefer. The following venues have gender neutral toilets at the time of publication;

- VQ – 45. Gender neutral toilets on the ground and first floors opposite the lifts.
- AQ5 - 24 Gender neutral toilets on the ground and first floors opposite the lifts.
- Marine Lab – 17

## 4.7 Accessing advice on security

A colleague who has transitioned in the workplace may experience increased levels of scrutiny and comment from people who are not part of the SG workforce in and around their work environment which may impact on their feelings of security when accessing the workplace. This impact may be also felt in digital and social media environments. Advice can be sought from the PAW MANAGER who will liaise with the Workplace Security and Business Continuity team to identify measures that can be taken to minimise risk.

## 5. Additional Information

**Pensions** – Changes to an employee’s gender may affect their pension benefits. The PAW MANAGER will work with our Pensions Team to ensure a smooth administrative transition.

**Disclosure** – If the employee wishes to share their transition, the employee is encouraged to work with the PAW MANAGER and their manager to use a communications plan for informing colleagues of their transition regarding their gender. An example communication plan can be found in Annex C.

**Handling of media interest** – Should the media or public enquire about the transitioning of an employee, respect for the dignity, privacy and well-being of the employee will be a paramount consideration. We have additional procedures in place to support anyone who is subjected to external scrutiny and attention. Find out more in our supporting

colleagues - harassment or abuse from external parties guidance. Scottish Government will not condone malicious, abusive or otherwise intrusive enquiries to be made against any colleague in any role and will offer support and help anyone approached by the media. Your PAW Manager can provide advice and support if needed.

**IT Systems** – ‘Mx’ is a title option on e-HR, although there is no requirement to specify a title on e-HR and this field can be left blank. Similarly, there is no title requirement on SCOTS.

## **Annex C: Communication Plan for Transitioning at Work**

### **1. Developing the Communication Plan: Information to Include;**

**This section contains suggestions on areas that it may be useful to discuss and consider when developing a communication Plan. This is a guide, and not intended to be prescriptive for either trans colleagues or management staff.**

Detail what the changes will be;

- Pronouns, names and titles
- Clothing / dress code and/or uniform
- Security passes and name-badges

Detail where the changes need to happen on systems,

- *On e-HR system*
- *On Staff Directory*
- *On Flexi system*
- *On IT systems*

Detail who these changes need to be communicated to;

- *To immediate colleague network;*
- *To wider colleague network*
- *To external network*

The transitioning employee should have control over if, how and when to communicate name and pronoun changes to external stakeholders or clients. This may or may not be different to the timing or type of communication with their team.

***N.B: All of the above are a choice and not a requirement.***

Detail how the changes will be communicated to each 'audience':

- *Universal or to particular groups*
- *In person / face to face*
- *By e-mail or other written media (an e-mail template is provided at the end of this document)*
- *In specific calls or meetings*
- *To individuals and / or groups*

Detail when the changes need to happen (timeline):

- *Sequence of changes required desired*

Agree on actions and a communication timeline that best suit the employee.

### **Example Record**

<b>'Audience'</b>	<b>Who</b>	<b>What</b>	<b>When</b>	<b>How</b>
Team				
Division				
Directorate				
Internal Stakeholders				
External Stakeholders				

## **2. Ideas on how to communicate the changes for the first time**

Once the 'what the changes are' and 'who the changes are being communicated to' elements of the communication plan have been agreed, a plan should be made for 'how' the changes will be communicated. Examples include;

### **Team Meeting**

The communication of changes may happen at a staff meeting. This could be a regular team meeting if the employee is comfortable with that.

This announcement can be short, to the point, and not invite further questions to the individual. The burden of explaining what transitioning is to their colleagues should not be on the staff member transitioning. Managers should follow employee wishes on, for example, shutting down any invasive questions. Colleagues can be directed to the Trans policy and procedures and to the D&I curriculum for any further information. See the email template below for some phrasing examples.

### **Individual E-mail or Letter**

Email example, to be adapted to employee wishes can be downloaded:

## ANNEX D E-MAIL OR LETTER SAMPLE

*Hi all,*

*I would like to share some personal news with you all: I am [gender] [and I'm now going by the name [new name]/but I am still going by the same name/and I am now going by both the name you know me as and [new name] delete as applicable].*

*There is detailed guidance on including trans and non binary people within SG available. As team leaders and line managers, I would ask [add manager/team leader/DD name] to read through this guidance although it may be useful for everyone to have a read through if they have the time.*

*Going forward, please refer to me by my new pronouns which are [edit as applicable] and avoid referring to me using incorrect gendered language such as [man/sir/woman/lady/delete as applicable], including in meetings and correspondence with people outside our team. I appreciate that up until this point you have known me differently and so there are bound to be some mistakes made as you adjust your language to match my gender. What is important is that you correct yourself when this happens and move on, and correct others where they have used the wrong pronouns/name.*

*[While I am happy to answer questions you may have, I would ask that you take some time to consider how appropriate these are before doing so]/[this is a sensitive issue for me so telling people still feels quite intense, I'm not ready to talk about this further but appreciate your support.][delete/edit as appropriate]*

*This may be a bit of a surprise, but transition doesn't happen overnight. It is a long process; it has taken me a long time to get here, and there's a lot more ahead. [Telling you is a happy/positive/big step for me!] I hope I can count on you all to support me coming out within the workplace.*

*All the best, [new name]*

If working in an area with uniforms, managers and employee should consult the main trans policy and guidance section on uniforms.

## **Annex E: Changing a Name on Systems**

Below are some points where a name change may be needed

- Changing name on work systems does not require any proof of legal name change or other documentation. Staff are not limited to one change of name on work systems, and can revert to previous name or change name again when needed.
- People may need to restart their computers to propagate a new name through MS Teams, email, and MS Office. After name and email change, Outlook will not automatically replace someone's name in the autofill part of the 'To' field, as well as in Calendars. Therefore, they will need to be deleted and replaced for the changes to take place. You can do that by clicking on the X next to the name in the autofill dropdown, and right-click on the respective calendar and 'Delete Calendar'.
- Remove old name and add new name to documents where desired, particularly team documents like org charts and contact lists.