

Trans Equality in the Workplace Policy

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Version	Status	Date	Issued by	to/approved	Comments
	December 2022 Policy was archived and included within the Staff Handbook – Our People Policies. Decision made to separate all policies and re-instate as individual policies in April 2023				
VO.1	Draft	July 2023			Review of document to ensure it is up to date and fit for purpose
V1.0	Approved	July 2023	Joint Negotiating Forum/ Chief People Officer		Approved Assurance given to Workforce and OD Committee – Sept 23

REFERENCES

[Employment Act 2002](#)
[ACAS Code of Practice 2003](#)

RELATED POLICIES/PROCEDURES/protocols/forms/leaflets

Equality, Diversity and Inclusion Policy	
Gender identity transitioning at work Policy	

SUMMARY OF CHANGES

Date	Author	Page	Changes (brief summary)

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1 WHAT THIS POLICY COVERS

- 1.1 This policy outlines how trans people should be treated in a dignified, non-discriminatory way.
- 1.2 KMPT recognises:
 - The broad spectrum of gender diversity within society and that traditional gender stereotypes are not adequate in reflecting the lives of employees, service users and visitors.
 - That people have the right to live with dignity and privacy in the gender with which they identify, and that there must be no exceptions to this whether a trans person is an employee or using our services.

2 PRINCIPLES

- 2.1 The Equality Act.2010 demonstrates that a trans person does not have to be under medical supervision or have a gender recognition certificate (GRC) to prove that they have a protected characteristic of gender reassignment.
- 2.2 Trans people must be treated in accordance with their self-declared gender identity.

3 RESPONSIBILITIES

- 3.1 The KMPT Board will ensure that this policy is applied fairly and equitably.
- 3.2 Managers are responsible for supporting their employees including those going through transition.
- 3.3 The HR Business Partner and the Equality, Diversity and Inclusion Team will advise on application of this policy.

4 POLICY IN PRACTICE

4.1 The Meaning of trans

- 4.1.1 We use trans as an umbrella term for people who feel their gender identity or gender expression differs from the sex that was assigned to them at birth.
- 4.1.2 Sex and gender are not interchangeable terms. One's biological sex can be at odds with their own view of their gender.
- 4.1.3 A person's biological sex includes all aspects of their sex-related biological structure (breasts, facial hair, voice, body shape etc.). Most people's biological sex will be clearly male or female. Some people who have bodies which are not clearly male or female and those born with these physical variations are known as intersex.
- 4.1.4 An individual's gender identity is their psychological sense of self being a man or woman. Some people may not identify with a binary concept of gender (man or woman) and instead identify as having a non-binary gender or as having no gender. Some people experience their gender as fluid and changeable. A person's gender identity is as invisible as their personality when they are born.
- 4.1.5 An individual's gender expression is how they present themselves through their external gender related appearance and their behaviour. This can be an expression of someone's gender identity but is not always the case and assumptions should not be made based on this.

4.2 The Gender Recognition Act (GRA) 2004

- 4.2.1 This gives legal recognition to trans people following a permanent change of gender. The GRA is not currently sufficiently inclusive of non-binary people. It sets out the process for individuals to apply for a Gender Recognition Certificate (GRC) after living full time in their acquired gender for at least two years. It is not necessary for someone to have undergone medical intervention, other than a diagnosis of gender dysphoria, to receive a full GRC.
- 4.2.2 A GRC is not required in order for trans people to request a change to their gender marker on their passport or driving license.
- 4.2.3 Once a full GRC is issued to a person, their legal sex/ gender henceforth becomes for all purposes their acquired gender – including for marriage and civil partnerships purposes and for employment in posts where a Genuine Occupational Qualification to be a particular sex/gender applies. People with a GRC can apply for a corrected birth certificate if their birth was registered in the UK. A person who has received a GRC is not required to show their GRC to others such as employers or service providers. It is not an identity document and will not be carried on the person.
- 4.2.4 Employers and service providers must change, on first request by an individual, their name and gendered title (Mr, Miss, Ms, Mx) on all their employment, medical and other records identity badges and future correspondence. All that individual needs to state in their request is that they are starting a process of gender reassignment to live permanently in their acquired gender.
- 4.2.5 They do not need to show a GRC in order to change their day to day documentation or to use the toilet facilities of their acquired gender.
- 4.2.6 Section 22 of the GRA 2004 makes it a criminal offence, with a fine of up to £5000 on conviction, for any person to disclose information which they have acquired in an official capacity about an individual's application for a GRC or about the gender history of a successful applicant. If a person has a GRC or it could be assumed they had one e.g. they are living full time in their acquired gender, then this cannot normally be disclosed further in a way which identifies the person involved without that person's express consent, or more exceptionally, a specific order by a court or tribunal.
- 4.2.7 Section 22(4) of the GRA 2004 states specific exempt circumstances where it is not an offence to disclose protected information about a person's application for a GRC or about that person's gender history. The exempt situations of relevance to KMPT are where:
- The information does not enable that person to be identified.
 - That person has agreed to the disclosure of the information.
 - The disclosure is in accordance with an order of a court or tribunal.
 - The disclosure is for the purposes of preventing or investigating crime.
- 4.2.8 A standard consent to share information of services user's with other agencies does not include sharing information in relation to a person's gender history.

5 KMPT'S RESPONSIBILITIES

- 5.1 KMPT must ensure that trans employees and service users are treated in the gender with which they identify and live, irrespective of whether they have undergone any hormonal or surgical treatment or have a GRC.

- 5.2 It is unacceptable for employees to refuse to recognise, for any period of time, an employee, service user/service user or visitor as belonging to the gender with which they identify.
- 5.3 Being aware that a person has transitioned does not give anyone the right to treat them differently.
- 5.4 Discrimination from employees, service users or the public will not be tolerated.
- 5.5 **Employees going through gender transition**
- 5.5.1 The KMPT Gender Identity Transitioning at Work Policy sets out guidelines for employees and managers to support employees undergoing their gender transition whilst working at KMPT.
- 5.6 **Supporting trans employees and service users**
- 5.6.1 Trans employees and service users must be treated with civility, dignity and respect with consideration of the following:
- Pronouns – ensure you use the correct pronoun for the individual e.g. he/she/they/ze – this list is not exhaustive. Ask the individual how they would like to be addressed.
 - Religion or belief – no-one should use their particular religious beliefs or cultural views about trans people to refuse to treat, work with or share facilities with a person who is trans.
 - Toilets and changing facilities – trans people should not be prevented from having access to the facilities that affirms their gender identity. Gender neutral facilities may be available as an alternative for any person whether trans or not, who do not wish to share with others. This may be especially important for some people who identify as either men or women or identify as both and would be uncomfortable entering facilities designated 'ladies' or 'gents'.

6 DISCRIMINATION AND HARASSMENT

6.1 Direct discrimination

- 6.1.1 Occurs when a person is treated less well because they have a protected characteristic. This applies when a person is discriminated against because they are perceived to be trans – even if they are not. Those associated with trans people such as partners, spouses, other family members or carers are also protected against discrimination.

6.2 Indirect discrimination

- 6.2.1 Occurs when a rule that is neutral as it applies to most people, creates a disadvantage for a person with a protected characteristic. It is not enough for a manager to say that they are treating a trans person in the same way as they would any other employee if that treatment puts a trans person at a disadvantage.

6.3 Bullying

- 6.3.1 May be characterised as offensive, intimidating, malicious or insulting behaviour, or abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient.

6.4 Harassment

6.4.1 Is unwanted conduct related to a relevant protected characteristic, affecting the dignity of people in the workplace. It may be related to age, sex, race, disability, religion, sexual orientation, nationality or any personal characteristic of the individual, and may be persistent or an isolated event. The key is that it has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for the recipient.

6.5 Victimisation

6.5.1 Occurs when someone is badly treated as a direct result of having complained, either themselves, or someone else has complained on their behalf about discriminatory treatment under the Equality Act.

6.6 Discriminatory practice

6.6.1 Trans people may experience some or all of the following examples of discriminatory practice:

- People refusing to associate with or ignoring them because of their trans status.
- Not being addressed in their affirmed gender or not having their new name used.
- Having their personal life and relations probed into.
- Having malicious gossip spread about them.
- Having confidential information relating to their trans status released without their approval.
- Having confidential information relating to their trans status released by someone they have disclosed to.
- Not being allowed to use facilities that are appropriate to the gender in which they live.
- Being treated less favorably than others in regard to sickness or other absences.
- Being refused access to services, facilities or premises due to prejudice from employees or other service users.
- Being verbally abused or physically assaulted because of their trans status.
- People refusing to associate with or ignoring them because of their religion, belief or cultural views.

6.6.2 As an employer and deliverer of care for trans people, KMPT should ensure that health and life experience are not diminished but rather enhanced through celebrating and embracing diversity.

7 EQUALITY IMPACT ASSESSMENT

7.1 The Equality Act 2010 places a statutory duty on public bodies to have due regard in the exercise of their functions. The duty also requires public bodies to consider how the decisions they make, and the services they deliver, affect people who share equality protected characteristics and those who do not. In KMPT the culture of Equality Impact Assessment will be pursued in order to provide assurance that the Trust has carefully considered any potential negative outcomes that can occur before implementation. The Trust will monitor the implementation of the various functions/policies and refresh them in a timely manner in order to incorporate any positive changes.

8 HUMAN RIGHTS

- 8.1 The Human Rights Act 1998 sets out fundamental provisions with respect to the protection of individual human rights. These include maintaining dignity, ensuring confidentiality and protecting individuals from abuse of various kinds. Employees and volunteers of the Trust must ensure that the trust does not breach the human rights of any individual the trust comes into contact with.