
Non-Binary Gender: Information and Inclusion

Introduction

The purpose of this guide is to highlight areas that are important to developing equality for non-binary gendered people within organisations and beyond. Whilst non-binary and trans people have many similar concerns it should be noted that there are also significant areas of divergence.

Non-binary people generally identify their gender outside the binary gender constructs of man and woman, there may also be disputes with binary classification of sex particularly for intersex people. UCU does not support the practice of gender assignment at birth and stands alongside those who call for more complex understanding of sex and gender than is currently practised. UCU also notes that there are an increasing number of countries where people can identify their gender beyond the binary in a variety of ways. An aim of this guidance is to demonstrate why and how this is possible.

Some people who are non-binary identifying also identify as trans because their gender is not the same as assigned / registered at birth. Many trans people do not identify as non-binary as they identify with the gender other than that assigned at birth. Intersex people whilst having struggles in common with trans and non-binary identifying people may do so for reasons that are unique to intersex people and may therefore not identify as trans or non-binary.

Non-Binary Gendered

People who define their gender identity as neither being exclusively male or female. This group includes those who, for example, describe themselves as 'Genderqueer'.

'X' / Other

These terms are used as options to enable people to declare a gender identity that is different to the traditional female and male. In some contexts, 'X' is used by intersex and some trans-identifying people who regard their identity as a third sex.

Assigned Sex

Assignment is undertaken at birth when determining whether the child is male or female (binary categories). At this stage, observations about external anatomy are made by medical staff, see the term 'Sex' below. This is required to facilitate the registration of sex on a birth certificate. This process is undertaken with the aim of assigning sex which is most likely to be congruent with the child's gender identity. There may be a more extensive assignment process in cases where it's not clear how to assign sex from external and / or observable internal biological indicators.

Gender

Gender refers to psychological, behavioural, social and cultural aspects of being e.g. masculinity / femininity. This is different to sex which refers to biological features. Distinction between the terms gender and sex is not regularly observed. Many cultures have socially expected gender roles that relate to the sex assigned at birth.

Sex

Sex refers to a person's physical and biological traits most often based on appearance of external genitalia. Alongside external genitalia there are a number of indicators of biological sex including sex chromosomes and internal reproductive organs.

Gender Identity

The term gender identity relates to how an individual identifies themselves as male, female, a blend of both or neither. This can be the same or different as sex assigned at birth. The way someone identifies may not be the way they externally express (present) themselves. Assumption about how a person self-identifies their gender can lead to misgendering.

Misgendering

Misgendering is when a person or people use language related to one gender (e.g. pronoun or prefix) about an individual or group of people whom do not themselves identify with that gender.

Intersex

People who have variations of sex characteristics that do not fit with typical male or female bodies. Intersex babies have to be registered as either male or female. Some intersex conditions become apparent later in life, for example during puberty.

Gender Fluid

An individual's experience of their gender which may be outwardly expressed or not. A dynamic experience of gender where at one time a person may feel and / or present more toward one binary but at another time feel and / or present more toward the other.

Genderqueer

An identity most often adopted when a person does not subscribe to conventional gender distinctions and may identify with neither, both or a combination of male and female genders.

Presentation

Gender presentation is about an individual's outward appearance including but not limited to the way they dress. A person may present in a way that varies with their gender identity. For example someone may wish to opt for what they consider the most acceptable presentation in a given setting rather than the gender they identify with. It can be misleading to assume a person's gender identity based on their presentation. For example a person may present in a way

usually associated with men for reasons associated with a particular situation but actually their gender identity is (trans) woman.

Respect

Central to ensuring gender identity equality, in common with all other equality areas, is respect. Respect for a person's own gender identity, for their rights to work or study with dignity, for their name and personal identity, for their privacy and confidentiality.

Self-definition

Self-definition is increasingly regarded as a key principle, like with other protected characteristics. For gender identity, self-definition is important because it enables people to identify their gender in a way that is meaningful for them. An example of how this may be done is providing more than the binary categories on an equality monitoring form, for example 'other' with space to write in the individual's own preferred term (e.g. other (please specify) ...)

Pronoun

He and She are pronouns associated with the gender binary categories. As awareness of greater diversity of gender has grown more pronouns have emerged such as the singular 'they' which is gaining in popularity. In some circles, it is already common to respect the individual's gender identity and ask them which pronoun they prefer to use rather than assume based on the person's assumed gender.

Name Change

In the UK:

- i. a person's name can be changed at any time
- ii. a person can have a number of names and 'identities', providing they are not used for fraudulent purposes
- iii. a person may have more than one legal identity at the same time
- iv. a person can choose to have all or any aspects of their private or public life, for example bank accounts or tax records, managed in any identity, or more than one, providing this is not for fraudulent purposes.
- v. This includes the use of titles such as Mr, Mrs, Miss, Ms or Mx
- vi. Whilst not legally necessary, and possibly legally disputed, many organisations require proof of name change for example free deed poll

or statutory declaration¹ A gender recognition certificate is not required to prove gender reassignment.

Action that can be taken within organisation to further non-binary gender equality

1. Build discussion of gender identity and other equality issues into the content/delivery of the curriculum.
2. Develop effective policies and procedures that address gender identity equality. Make sure these are easy to find and well-publicised.
3. Not request a gender recognition certificate to prove a person's gender identity. Name changes are permitted and can be done at an individual's request.
4. Equip staff with the understanding and skills to identify, challenge and deal with inappropriate behaviour wherever it occurs.
5. Wherever equality monitoring is carried out:
 - i. include questions around gender identity
 - ii. reporting on gender identity should remain completely voluntary.
 - iii. explain the purpose of the exercise
 - iv. pay attention to the needs and concerns of staff and learners who are trans
 - v. be sensitive to concerns about disclosure noting that environments can be made welcoming and enabling.
 - vi. ensure that efforts are made to encourage reporting by reassuring and explaining the reasons for such data collection, and how the data will be stored
 - vii. do not restrict staff and/or learners to male/female gender identities.
 - viii. Ensure confidentiality
 - ix. Take steps to enable all staff to understand their rights and responsibilities in relation to gender identity.
 - x. Provide support through, for example, training and promoting information about non-binary experiences
 - xi. Provide facilities, including toilets, that are clearly communicated as inclusive of trans and non-binary people

¹ <https://uktrans.info/namechange>

A word on provision of facilities that are inclusive of non-binary people

Toilets and other facilities that are established for the use of disabled people are an important access provision for disabled people. Establishing these as the gender neutral toilet (or other facility) provision has the impact of removing ease of access for disabled people to the toilets they can use. UCU believes that it is important to maintain single sex and accessible toilet / facility provision whilst also ensuring that there is at least one set of easily reached that is / are gender neutral. Similarly provision of such facilities should enable inclusion in services provided by an organisation for staff and learners, including sports^{2, 3}

UCU National Action

UCU has changed the way data collection is done to include the category 'other' alongside 'male' and 'female'. To facilitate self-identification UCU provides space for individuals to specify their own preferred term. UCU participates in the national consultation around the 2021 Census. The Office for National Statistics (ONS) undertook an initial exercise to see whether asking or not asking a gender identity question on the census would have significant impact. Having identified that there is a case for asking such a question, ONS is checking what this might look like. From the consultation, a view is emerging that providing an 'other (please specify)' option will enable terms other than male and female to become established over time through common usage. The UCU LGBT members standing committee has recommended use of the term LGBT+ to be more inclusive, this is in line with many organisations including the TUC.

At the 2016 UCU LGBT members' conference, delegates discussed and voted for a motion that called for inclusive / gender neutral toilets to be included in all new buildings across the post school education sector. UCU provides training on gender identity through the national training programme for reps.⁴

Working with partner organisations such as the NUS, UCU is researching and monitoring provision for LGBT+ people including those who identify as non-binary, trans and intersex in order to ensure ongoing, sustainable, and increasing inclusion.

² <https://www.bucs.org.uk/athlete.asp?section=19649§ionTitle=Transgender+Inclusion+in+Sport>

³ <https://www.nus.org.uk/PageFiles/12238/out%20in%20sport.pdf>

⁴ <https://www.ucu.org.uk/training>