
Guide to Gender Identity

This guide about gender identity equality has been produced to provide an overview of key terms and an update on this fast developing area of equality. This guide provides a picture of where action and thinking around gender identity equality is in 2017.

There has been a considerable rise in the profile of trans and non-binary people since the inclusion of gender reassignment as a protected characteristic in the Equality Act 2010 and the 2004 Gender Recognition Act. There are currently (2017) reviews and discussions about how to support all those who do not identify with the sex registered at their birth including those who want to engage with medical procedures and those who do not.

There are trans people who face considerable problems in terms of access to general and trans related health care, employment, education and housing. Statistics continue to show that in the UK trans people experience relatively elevated levels of self-harm, emotional distress and suicidality.

1 Key Terms

There are some terms that are commonly used when talking about gender identity. The following have been used or are central to parts of this guide

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.

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.

Gender Reassignment (including transition)

Gender reassignment is a term used to describe the process of transition that a person goes through when they change from being the sex they were assigned at birth to the one consistent with the gender they identify with. Some people call this Gender Confirmation. Gender reassignment is one of 9 protected characteristics in the 2010 Equality Act, the protected characteristic gender reassignment does not explicitly cover a person who is not living, or not assumed to be living, in a gender other than the one they were assigned at birth.

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.

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.

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.

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.

¹ <https://uktrans.info/namechange>

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) ...)

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. At birth babies are registered into a binary category, male or female. This binary categorisation from the observable biological traits leads to assignment of sex. See assigned sex in this document for more information.

Sexual Orientation

An individual's identity based on attraction (be it emotional, romantic, and / or sexual) to other people. Often described in relation to sex e.g. bisexual, heterosexual, homosexual and (attracted to others regardless of their biological sex or gender identity) pansexual.

2 Terminology

There are many different terms in use for defining sex and gender. The following have been used in this guide or in related documents.

- i. Binary Gendered: individuals who self-identify as either male or female, including trans men and women.
- ii. Cis-gendered: individuals who identify with the gender they were assigned at birth.

- iii. Gender Expression: an individual's choice of how they present themselves in terms of behaviour, clothing, hairstyle, voice etc. this can alter day to day and may not be consistent with gender identity
- iv. 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 more toward one binary but at another time feel more toward the other
- v. 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.
- vi. Intersex: people who have variations of sex characteristics that do not fit with typical male or female bodies
- vii. Non-Binary Gendered: Individuals who define their gender identity as not male or female. This group includes those who, for example, describe themselves as 'Genderqueer'.
- viii. Transgender / Trans: individuals who describe their gender identity differently to that assigned at birth.
- ix. 'X' / Other: these 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.

3 Action toward Gender Identity Equality

Some significant pieces of work have been produced in the past couple of years in the post-school education sector and beyond. This guide provides a summary of these and information about how UCU has and can respond at national and local level.

3.1 Parliamentary review of Transgender Equality:

On January 14th 2016 the House of Commons Women and Equalities committee published the Transgender Equality report from the inquiry that was launched in the summer of 2015².

² <http://www.parliament.uk/business/committees/committees-a-z/commons-select/women-and-equalities-committee/inquiries/parliament-2015/transgender-equality/>

3.1a The overall message for post-school education was that:

- i. Learners face bullying or harassment including threats, intimidation and physical assault on campus
- ii. Further education is considered to be more hostile than HE
- iii. An impact of the bullying and experience of relative hostility is that a relatively high number of learners consider leaving their course.

Other Issues raised included:

- a. Lack of gender-neutral toilets
- b. Lack of policies to update names and genders in the student register
- c. Being mis-named or mis-gendered
- d. Problems with security
- e. Ill-informed careers advisers
- f. Accommodation
- g. Support whilst needing time-out for reasons such as transitioning, mental health
- h. The binary gendering of various things, such as toilets, and activities, such as sports, is problematic for trans, including non-binary gender identifying people
- i. There are issues caused by different understanding of gender amongst people of different generations.
- j. There were also some specific recommendations about the prison service including need for training.

3.1b Transgender Inquiry on Bullying

The Committee stated in the report that the extent of bullying is unacceptable and recommended that:

- i. The Secretary of State for Skills meet not only with university VC's as offered at the time of the inquiry but also FE providers.

- ii. Government should take steps to ensure all FE and HE staff receive gender identity awareness training
- iii. FE and HE institutions should take proactive steps to promote trans equality

3.2 Government Response to the Transgender Inquiry Report

The Government response to the Transgender Inquiry report was issued in July 2016.³ The overall message was the Government wants to review many of the points raised, focus on impact and bring into action planning.

Relating to the recommendations about post-school education in this report the Government responded that

- the Minister for Skills will include reference to the importance of action on transgender equality in briefing college principals and training providers. Similarly, that the Minister for Universities and Science will write to Universities UK with a similar message.
- Universities UK has a taskforce focusing on practical recommendations, awareness raising and sharing good practice. The Government stated that this was due to be reported for the start of 2016/17 academic year.
- Trans guidance in HE by the Equality Challenge Unit was noted. Inclusion, from 2015, of trans in the ECU Gender Equality Charter was also noted.
- In the Further Education, the Skills Funding Agency (SFA) research (2011) into sexual orientation and gender identity was noted. Note was also made of some SFA funded projects, and the Forum⁴ Trans guidance. The Government response to the report included a link to the Forum guidance through the UCU equality pages
https://www.ucu.org.uk/media/5014/Trans-equality-in-post-school-education/pdf/forum_trans_guide_20121.pdf

³

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/535764/Government_Response_to_the_Women_and_Equalities_Committee_Report_on_Transgender_Equality.pdf

⁴ The Forum for Sexual Orientation and Gender Identity Equality in Post School Education is a network of organisations in the post school education sector. The Forum promotes sexual orientation and gender identity equality in Further and Higher Education. For more information visit the Forum website:

<https://sgforum.org.uk>

3.3 The First House of Commons Debate on Trans Issues

On 1st December 2016, the House of Commons had its first ever debate on Trans equality. The points raised by the committee and the Government response were covered. Ruth Cadbury MP mentioned the Forum submission which centered on the areas identified within the Forum Pride and Prejudice in Education report.

3.4 2016 Pride and Prejudice in Education: report about experience and perceptions of Gender Identity Equality in Post-School Education

The Forum for Sexual Orientation and Gender Identity Equality in Post School Education (The Forum) published Pride and Prejudice in Education report⁵ in February 2016. This reported finding from a survey about the perceptions and experiences of gender identity and sexual orientation in post school education. Key findings in the report included that:

- vii. Just under half of all respondents had witnessed negative behaviour towards people based on their gender identity. 10% of learner respondents reported they witnessed this every day.
- viii. Bi, homo and / or trans phobic name calling had been experienced by 17% of all staff respondents. 59% of non-binary learners had experienced this.
- ix. An average 35% of all learner respondents reported considering dropping out of their course. The percentage of non-binary identifying learners who thought about dropping out of their course was 47%.
- x. 75% of non-binary identifying learners did not state that their place of learning provided good support.
- xi. A majority of both non binary identifying learners (63%) and staff (52%) said that nothing would stop them from declaring their gender identity for equality monitoring purposes if this was available. More than 25% of respondents reported that they had not had the opportunity to disclose their gender identity.

⁵ <https://sgforum.org.uk/wp-content/uploads/2016/02/Pride-and-Prejudice-in-Education-report.pdf>

3.5 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. UCU is reviewing whether there is more inclusive term than LGBT to use for its work around gender identity and sexual orientation equality.

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.⁶

4 Guide to UCU branch actions in local organisations.

4.1 What branch can do?

- xii. Address gender identity issues through equality fora
- xiii. Ensure that the voices of all staff are heard throughout the organisation including union representation on organisational equality committees
- xiv. Ensure that derogatory language and discriminatory behaviour is challenged as a matter of course. For example, by widely publicising the equality policy, or developing a 'zero tolerance' approach to transphobic bullying and harassment.

⁶ <https://www.ucu.org.uk/training>

- xv. Take steps to enable all staff to provide support for colleagues who are targets of bullying and harassment
- xvi. Signpost to support services including, where appropriate, third party trans or LGBT+ organisations.

4.2 **What an organisation should be doing already so the branch can check and, if necessary, chase up:**

- xvii. Build discussion of gender identity and other equality issues into the content/delivery of the curriculum.
- xviii. Develop effective policies and procedures that address gender identity equality. Make sure these are easy to find and well-publicised.
- xix. 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.
- xx. Equip staff with the understanding and skills to identify, challenge and deal with inappropriate behaviour wherever it occurs.
- xxi. Wherever equality monitoring is carried out:
 - a. include questions around gender identity
 - b. reporting on gender identity should remain completely voluntary.
 - c. explain the purpose of the exercise
 - d. pay attention to the needs and concerns of staff and learners who are trans
 - e. be sensitive to concerns about disclosure noting that environments can be made welcoming and enabling.
 - f. 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
 - g. do not restrict staff and/or learners to male/female gender identities.
 - h. ensure confidentiality.

4.3 **How an organisation can be inclusive of LGBT+ people and what may be campaigned for**

1. Take steps to enable all staff to understand their rights and responsibilities in relation to gender identity.
2. A person's trans history should not be revealed. This is covered by the Gender Recognition Act, and more general data protection.
3. Ensure staff are aware of gender identity issues
4. Provide support through, for example, training and promoting information about trans and non-binary experiences
5. Develop inclusive curriculum content
6. Language and terminology used should be up-to-date with best practice and ideally agreed with trans and non-binary learners and staff.
7. Provide facilities, including toilets, that are clearly communicated as inclusive of trans and non-binary people
8. Reach out to all gender identity groups in consultations and surveys. Lack of opportunity to disclose is a significant issue. This includes providing a relevant option on the monitoring form.
9. Promote awareness about the confidentiality of data and what it is used for so as to facilitate an increased number of people completing monitoring forms.
10. Develop more LGBTQ+ networks as an important means of support. Make sure these groups are trans and non-binary inclusive.
11. Establish a clear first point of contact for incidents to be reported