

Gender Identity Policy and Guidance

This policy applies to current and former students who inform the University that they have made, or intend to make, the transition to a gender other than the one they were assigned at birth.

Open University staff should be familiar with this document when supporting gender diverse and trans students.

Version: May 2018

This document is published in line with the University's objective to improve equality policy and guidance for staff and students. Further information about the University's equality objectives is published on our website at www.open.ac.uk/equality-diversity/.

Acknowledgements

'Trans staff and students in HE and colleges: improving experiences', revised 2016, published by the [Equality Challenge Unit](#)

Barker, M-J., Boukli, A., Renz, F. & White, F. (2017).

[Non-binary staff and student guidance for higher education institutions.](#)

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May 2018

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1 Introduction

Gender refers to a person's sense of themselves as a woman, man, or non-binary person. It can encompass how they experience themselves, how they identify, and how they express themselves in terms of voice, clothing, etc.

The Open University (OU) recognises that the experience of transition from one gender identity to another, or identifying as non-binary, may impact on a student's study experience.

2 University policy on gender identity

2.1 Policy aims

The OU aims to create an inclusive environment in the workplace, the learning environment, research settings and online activities. For gender diverse students, the learning environment should:

- Be responsive to the student's needs, enabling them to live in the role that is consistent with their gender identity, and to study effectively
- Be free from discrimination, harassment and victimisation in a place where everyone is treated with dignity and respect
- Support students in achieving their study goals

2.2 Rights and responsibilities

All students

- Declare their gender identity to the OU and have the right to request changes to their OU record in terms of gender identification.
- Trans and non-binary students may request a named contact to assist with study support.

All OU staff have these responsibilities

- To respect the dignity of all students and their self-identified gender status.
- To challenge or report incidents of discrimination, bullying and harassment, or victimisation relating to gender identity.
- To process the student's request to update OU records, systems and documents to reflect their new gender identity, as appropriate.
- Maintain confidentiality in accordance with the relevant clause in the contracts of all OU staff.
- To store information provided by the student appropriately and in accordance with data protection legislation.
- To comply with the law in relation to the protected characteristics of gender reassignment that is in force in Great Britain and Northern Ireland (see appendix 3 of the Gender Identity guidance).

3 Guidance: Supporting you as a student

3.1 What we need you to do

You will need to let us know if you would like to make a change to how your gender is recorded on your OU record, so that we can put in place appropriate support.

You can let us know by one of the following methods:

By post

- Label 'Strictly Confidential'
- Mark for the attention of the Senior Manager, Student Support (IAG)
- Please use the template in appendix 1 of this document
- By sending this letter you are giving your explicit written consent for this information to be passed to the appropriate team. We will share information only on a need to know basis.

Email

- Gender-identity@open.ac.uk is a mailbox monitored by approximately 15 staff members who have an in-depth understanding of this policy and guidance. If you send an email to this address it will not be automatically attached to your student record.
- Alternatively, you can email your Student Support Team (details can be found in the [Help Centre section on StudentHome](#)). If you choose this option, the email will be picked up by any member of the Student Support Team and will be attached to your OU record.
- All staff with access to student records may see your email but are trained to handle information in accordance with relevant UK legislation (see appendix 2).

3.2 What we can do to support you

If you tell us you would like to make a change to how your gender is recorded on your OU record, will we contact you to discuss the following:

- Record changes and timeframes for doing this
- What support you feel you need in relation to your OU studies e.g.
 - Requesting extensions to TMAs
 - Tutorials
 - Exams
 - Residential schools
 - Whether you would like a named contact who can support you over a specified period of time

If you wish to make changes to your name or gender after you have completed a qualification we can contact you to discuss:

- Record changes and timeframes for doing this
- Requesting changes to certificates

All staff are expected to support students in accordance with the principles set out in the [Student Charter](#).

4. Record changes

4.1 Changing your name

All students are required to provide formal evidence of a change of name for example a copy of a deed poll or marriage certificate. Please see the following link for details of how to do this:

<http://www2.open.ac.uk/students/help/updating-your-profile>

4.2 Changing your gender

We do not require evidence of a change of gender. If you wish to change the way in which your gender is recorded on your OU record then you can simply let us know by following the instructions above (see section [3.1 'What we need you to do'](#)).

4.3 Changes to communications stored on your record

The Open University has a customer record management system which enables us to record all contact we have with each student. This record includes the following:

- A summary of each phone call
- Emails you send to us
- Emails we send to you (both emails sent to you personally and mailings sent to many students)
- A disability profile if appropriate

All student facing staff have access to these records and your module tutor will have a read-only view of certain aspects. We can therefore offer a variety of updates to these records according to what you feel is appropriate:

1. Keep same student record, OU personal identifier and OU computer username. Change name, title, gender on student relationship management database and all historical data remain as are (*5-10 working days).
2. Keep same student record, OU personal identifier and OU computer username. Change name, title, gender and previous notes on student relationship management database to be consistent with gender identification. All other historical data (e.g. emails, letters, scanned documents, historical online activities on forums, etc) remain as are (*15-20 working days).
3. Keep same student record, OU personal identifier and OU computer username. Detailed analysis of all databases, records, online platforms, etc. on what can and cannot be changed. This will be done by OU staff with technical expertise of IT systems (*30-40 working days for analysis). Then, further discussion regarding changes to be requested (further 20-40 working days for changes to be made).
4. Create a new student record, OU personal identifier and OU computer username. Transfer necessary details for further study across to the new record (*30-40 working days).

5. Storage of correspondence

5.1 Overview

All student data is processed in line with data protection legislation. For more information, see the OU's [Student privacy notice](#).

Correspondence relating to a request to change the way your gender is recorded on your record will contain sensitive personal data and so we have included further detail on this below:

1. Processing correspondence relating to a change of gender identity

The data included within this correspondence will be used to make the changes you have requested to your record.

2. Storage of correspondence relating to a change of gender identity

- The correspondence will be stored electronically in a secure folder. It will not be stored on the customer record management system.
- If we receive correspondence by paper then the correspondence will be scanned, saved in the secure folder and the original copy will be shredded. Please let us know if you would prefer us to return the original letter to you.
- Access to this folder is restricted to a small number of Educational Advisors and administrative staff (around 10 people).

3. Destruction of correspondence relating to a change of gender identity

- Correspondence within the secure folder will be kept for 6 years and will then be deleted.

Appendix 1: Sample correspondence

You can send correspondence by mail or by email but please note that emails may be retained on OU systems for auditing purposes. The risk, of your request to change your record, being revealed to others in the future as a result of retention of emails is considered to be low. However, if you are concerned about information being revealed to others in the future, you can choose to avoid email communication or limit the information you send by email or other electronic methods.

Giving explicit consent to share information and update OU records

Please complete and post the letter on the next page. Please mark the envelope as private and confidential and post to the following address.

PRIVATE AND CONFIDENTIAL

FAO Senior Manager, Student Support (IAG)
Philip Sully, 1st Floor
East Campus
Hammerwood Gate
MK7 6AA

Sample

FAO Senior Manager, Student Support (IAG)

OU Personal Identifier:

Date of Birth:

Dear Senior Manager

I have read The Open University (OU) policy and guidance for Gender Identity, and I am writing to notify the OU that I plan to change my gender and name.

I am including a **copy of legal confirmation of name change** e.g. deed poll / statutory declaration of name change.

My new name and gender role as stated below.

New Title: e.g. Mr/Ms/Mx

New Forename(s):

New Surname (if applicable):

New Gender role (Female/Male/Other):

Please accept this letter as my consent to make the necessary arrangements for University documents, records and systems to be updated. I know it may take some time to put in place the appropriate arrangements.

My preference from the list below would be for option (1, 2, 3 or 4)

1. Keep same student record, OU personal identifier and OU computer username. Change name, title, gender on student relationship management database and all historical data remain as are (*5-10 working days).
2. Keep same student record, OU personal identifier and OU computer username. Change name, title, gender and previous notes on student relationship management database to be consistent with gender identification. All other historical data (e.g. emails, letters, scanned documents, historical online activities on forums, etc) remain as are (*15-20 working days).
3. Keep same student record, OU personal identifier and OU computer username. Detailed analysis of all databases, records, online platforms, etc. on what can and cannot be changed. This will be done by OU staff with technical expertise of IT systems (*30-40 working days for analysis). Then, further discussion regarding changes to be requested (further 20-40 working days for changes to be made).
4. Create a new student record, OU personal identifier and OU computer username. Transfer necessary details for further study across to the new record (*30-40 working days).

*Estimated timescale from date agreed with named contact.

Signed:

Print name:

Date:

Appendix 2: External resources

Equality Challenge Unit

www.ecu.ac.uk/

Information about trans staff and students in higher education.

Gender Identity Research and Education Society (GIRES)

www.gires.org.uk/

For research relevant to trans people. Includes information for employers about transition at work and provides advice and training to organisations.

Gendered Intelligence

www.genderedintelligence.co.uk/

A Community Interest Company delivering trans youth programmes, support for parents and carers, professional development and trans awareness training for all sectors and educational workshops for schools and other educational settings across the UK.

Government Equalities Office

www.gov.uk/government/policies/creating-a-fairer-and-more-equal-society

For information about the UK Government's action plan to advance trans equality.

The Gender Trust

www.gendertrust.org.uk/

A charity that helps trans people and all those affected by gender identity issues.

Ministry of Justice

www.justice.gov.uk/tribunals/gender-recognition-panel

For information about the Gender Recognition Panel.

Press for Change

www.pfc.org.uk/

A lobbying and legal support organisation for trans people in the UK, it provides legal advice, training and research to trans people, their representatives, and public and private bodies.

Scottish Trans Alliance

www.scottishtrans.org

An Equality Network project to improve gender identity and gender reassignment equality, rights and inclusion in Scotland.

TransWiki

www.gires.org.uk/tranzwiki/

A comprehensive directory of the groups campaigning for, supporting or assisting, transgender people and their families across the UK.

Appendix 3: Legal information

Data Protection Act 1998 (UK)

Information about a person's gender identity is considered 'sensitive personal data' and is subject to tighter controls than other personal data. Explicit consent is required before it can be processed. Personal data must be looked after properly following the eight data protection principles, which include ensuring personal data is accurate, secure and processed fairly and lawfully. Failure to change a person's title, name and gender when requested could lead to the following offences under the Act.

- Disclosure of personal information that is used, held, or disclosed unfairly, or without proper security
- Failure to ensure personal information is accurate and up-to-date
- Processing of data likely to cause distress to the individual.

The Human Rights Act 1998 (UK)

The Human Rights Act 1998 applies to all four countries of the UK and provides protection to trans people, principally under the right to a private life (Article 8). The courts have interpreted the concept of 'private life' in a very broad way to cover, among other things, a person's right to express a sexual identity, to live a particular lifestyle and to choose the way they look and dress. It also means that personal information (including official records, photographs and letters) should be kept securely and not shared without the permission of the individual concerned. In addition, the right to privacy states that unless a public authority is acting in accordance with the law, there should be no interference by a public authority with a person's exercise of their right to a private life.

The Gender Recognition Act 2004 (UK)

The sole purpose of a Gender Recognition Certificate (GRC) is to instruct the appropriate UK Registrar General to make a new entry in their register from which a birth certificate can be drawn.

Where a full GRC is issued to a person (Section 9 of the Act):

- the person may have a new birth certificate in their new name and gender which does not reveal their previous name and gender
- the person is legally recognised for all purposes in their acquired gender
- the new gender applies to the interpretation of documents made before as well as after the issue of the certificate, which gives the person the right to request that references to their former name and gender be removed from old records to ensure their former identity is not revealed.

It is an offence for a person who has acquired protected information in an official capacity to disclose the information to any other person without the agreement of the individual.

Equality Act 2010 (Great Britain)

Gender reassignment is a protected characteristic. This means that there is a legal duty to protect from discrimination a person who is proposing to undergo, is undergoing or has undergone a process (or part of a process) to change their sex.

Gender reassignment is included in the Public Sector Equality Duty, which requires public authorities, in the exercise of their functions, to have 'due regard' to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act
- advance equality of opportunity between people who share a protected characteristic and those who do not
- foster good relations between people who share a protected characteristic and those who do not.

Failure to change a person's title, name and gender on records when requested to do so could lead to unlawful discrimination.

Sex Discrimination (Gender Reassignment) Regulations (Northern Ireland) 1999

Individuals who intend to undergo, are undergoing or have undergone gender reassignment are protected from discrimination in work and in vocational training (which includes higher education study).

Less favourable treatment relating to absences arising from gender reassignment is unlawful if

- the treatment is less favourable than if it had been due to sickness or injury
- the treatment is less favourable than if it had been due to some other cause and, having regard to the circumstances of the case, it is reasonable not to be treated less favourably.

Less favourable treatment includes the arrangements relating to terms and conditions or arrangements under which employment or vocational training is offered.

Appendix 4: Glossary of terms

This glossary has been adapted from the following guidance:

Barker, M-J., Boukli, A., Renz, F. & White, F. (2017). Non-binary staff and student guidance for higher education institutions.

<http://rewriting-the-rules.com/wp-content/uploads/2017/01/Non-BinaryGenderHigherEducationGuidance-1.pdf>

Agender

Having no gender in terms of presentation, identity, etc.

Androgynous

Having a gender identity and/or presentation including both masculinity and femininity, or which is neither masculine nor feminine.

Bigender

Identifying as both male and female. Possibly moving between these.

Cisgender (Cis)

A person who remained in the gender they were assigned at birth.

Demi man/boy or demi woman/girl

Identifying somewhat as male or female, but not completely.

Gender confirmation surgery(ies)

The surgical construction of primary and secondary sexual characteristics (confirmation is a better term than 'reassignment').

Gender dysphoria

A deep sense of unhappiness with one's birth-assigned gender.

Gender fluid

Experiencing oneself as different genders over time.

Gender identity

One's internal sense of one's self as a man, a woman, or another gender.

Gender neutral

Being neither male nor female.

Genderqueer

Identifying and/or presenting in a way, which is outside the gender binary of man/woman. Sometimes also used as an umbrella term for all non-binary people.

Intersex

Possessing any of several variations in sex characteristics including chromosomes, gonads, sex hormones, or genitals that, according to the UN Office of the High Commissioner for Human Rights, "do not fit the typical definitions for male or female bodies".

Neutrois

Having no gender in terms of presentation, identity, etc.

Pangender

Having mixed aspects of both male and female in presentation and/or identity. Possibly moving between male and female. Possibly identifying outside of male and female.

Third gender

Identifying as a further gender to male and female.

Transfeminine

Being feminine identified or expressing, but not necessarily being a trans woman.

Transgender (trans)

An umbrella term for people who do not present and/or identify as the gender they were assigned at birth either some or all of the time.

Transition

Often used to refer to making a shift from one gender to another.

Transmasculine

Being masculine identified or expressing, but not necessarily being a trans man.

Transphobia

Negative attitudes, emotions, behaviours and structures relating to people on the basis of their being trans in some way, or otherwise not conforming to conventional gender roles.

Trans man

A person who was assigned female at birth but who identifies as a man and lives in a male role (only used when pertinent – otherwise a man).

Trans woman

A person who was assigned male at birth but who identifies as a woman and lives in a female role (only used when pertinent – otherwise a woman)

Terms to Avoid**Male to Female / Female to Male (MtF/FtM)**

Assumes that people were previously one gender and are now another. Many trans people have experienced themselves as always the gender they now are, albeit that they were not always read that way by others. Therefore trans woman, trans man, and non-binary person are safer terms to use.

Transsexual

Generally associated with an overly medical and pathologising approach. Trans or Transgender is a better/more accurate word.

Summary of changes

August 2017

1. Policy title changed from Transgender Students: Policy and Guidance to Gender Identity Policy and Guidance.
2. Section 1. Introduction amended to include non-binary students.
3. Section 2.1 Policy aims amended to be relevant for any gender identity.
4. Section 2.2 Rights and responsibilities amended to be relevant for any gender identity.
5. Section 2.2 Responsibilities of named contact removed.
6. Section 3.1 Guidance changed from 'How to disclose' to 'What we need you to do" and contact details updated.
7. Section 3.2 Guidance changed from 'Initial response from the University' to 'What we can do to support you'.
8. Section 3.3, 3.4, 3.5 removed to make the policy more inclusive for all gender identities.
9. Section 4 Menu of options relating to record changes added.
10. Appendix 1. Sample correspondence formatted to outline record changes available.
11. Appendix 4. Glossary updated to include latest terminology.

May 2018

1. Section 5. added to the policy to include a privacy statement relating to storage of personal data.