



Fairfield School of Business

Trans and Non-binary Policy

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Version 1.1 – Working version for consultation

Approved by the Board of Governors

For Public Use



Quick Guide:

The Trans and Non-binary Policy expands upon the Schools guiding principles of promoting equality and fostering a diverse academic set out in its *Equality, Diversity and Inclusion Policy*.

If you are a student, please use the Student Complaints Procedure to raise a concern if you feel you have been unfairly excluded or discriminated against on

If you are subject to serious discrimination, bullying, harassment or victimisation, let your personal tutor, course leader or student support officer know as soon as possible as we may need to investigate under our Anti-bullying and Harassment procedures.

Members of staff should, in the first instance, speak to their line manager or Head of Department, who will consult with the HR Department. If these informal steps do not resolve the issue, the employee should contact their Faculty/Department HR Manager.

Severe breaches of this policy may be notified to the School's senior management using the School's Protected Disclosure (Whistleblowing) procedures.

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1. Introduction

The School through its Mission Statement and its *Equality, Diversity and Inclusion Policy* is committed to providing an educational experience to all regardless of sexuality. However it recognises that the term sexuality has traditionally implied a distinct fixed gender pattern and that this is now incompatible with an understanding that human sexuality is more correctly represented by a dynamic spectrum of physical and mental states. The purpose of this Policy is therefore to ensure that the principle of equal opportunity applies without exception to all and that it fosters good relations between all members of its community including trans, non-binary and intersex individuals. Specifically it sets out how the School supports Trans, non-binary and intersex students and staff and ensures they are protected from discrimination.

2. Definitions

For the sake of clarity the terms used in this Policy are defined below although it is accepted that terminology is constantly evolving and definitions may overlap. This will be reviewed in accordance with the standard School Policy review programme.

Trans

Someone whose self-determined gender is not the same as the sex that they were assigned at birth:

- Trans women – those assigned male at birth but whose gender is now female
- Trans men – those assigned female at birth but whose gender is male
- those who do not identify as either male or female (non-binary, third gender)

Non-binary

Refers to people whose gender identity does not accord either with 'man' or 'woman'. However it can include people who identify with some aspects of binary identity but others reject them entirely. May include the term 'Agender' (without gender). The term is used by those who reject the whole idea of gendering practice. Thus some non-binary people consider themselves Trans whilst others do not.

Intersex

A term used to describe persons who have the physical/biological attributes of both sexes so that they do not accord with the traditional view of what constitutes male or female.

Intersex people may identify as male, female or non-binary

Transitioning

This refers to a person who is already or who intends to move from their assigned sex/gender to expressing their self-determined gender either by social, medical or legal changes

3. Principles

The key principles of this Policy are;

1. People will be treated according to their self-determined gender. This means using the name, title and pronouns they have requested. It also includes the use of facilities, and the use of gender markers. Notwithstanding this the School will take disciplinary action against anyone who uses self-determined gender as a means to use facilities or concessions which would not be normally accessible to them or for purposes which infringe upon the rights of others
2. The creation of a supportive and caring environment for all Trans, non-binary and intersex people within and without the School. This includes their right to privacy and confidentiality, the encouragement of gender neutral language, awareness of specific mental and physical healthcare needs and avoidance of assumptions about gender identity

4. Harassment

The School's Anti-bullying and Harassment Policy applies to all staff and students and requires that all are treated with respect at all times. All complaints must be treated seriously and investigated and disciplinary action taken when proved.

However there are a number of examples of bullying and harassment which are specific to Trans, non-binary and intersex people and may include:

- Deadnaming – using the person's previous name
- Misgendering – using an incorrect gender
- Transphobia – refusing to accept that gender identity issues

Notwithstanding this it is accepted that inadvertent mistakes are possible and action will only be taken where it is clear that there is malicious intent.

Any student or staff member who considers they are the subject of bullying and harassment should complain and institute and complain under the School's appropriate Policy. For students this should take place through Student Support Services. On request the complainant can ask for a particular member of staff to act as a Named Contact who can act on their behalf.

5. Monitoring

It is important for the School to monitor the operation of this Policy and to ensure that its principles are operating for the benefit of all who work and study within it. Therefore although it accepts the right to privacy and confidentiality it will proactively engage with staff or students who are the subject of this Policy with their consent to ensure that the Principles of this Policy are being enacted.

The monitoring will be the specific responsibility of the Head of Student Services who will present a biannual Report to the Governing Body and advise on necessary changes to this Policy

Appendix: Legal Framework

There are currently four Acts which have relevance to students and staff at the School in respect of this Policy. This relevance is confined to that pertaining to adults only since the School does not admit or employ anyone under the age of 18.

Equality Act 2010

The particularly relevant section of this Act is that which prohibits discrimination of people who have undergone, are in the process of or intend to undergo 'gender reassignment'.

The process is defined in medical terms but there is also emphasis on the social aspects.

Gender Recognition Act 2004 (GRA)

The GRA allows a person to change their legal gender provided it is male or female.

Thus although there is increasing recognition in public life of a third or non-binary gender this is not recognised in law.

There is current government consultation about changes to this Act.

Under GRA a person can obtain a Gender Recognition Certificate (GRC) which will allow the issue of a new birth certificate. Obtaining a GRC requires medical evidence.

The GRC has strict privacy conditions. It is a criminal offence to disclose the information to anyone without the permission of the Trans person.

Data Protection Act 2018 (DPA)

Under the DPA information concerning a person's Trans status is defined as 'sensitive personal data'. It must therefore be kept as a 'special category'

Failure to change a person's gender when requested would be a breach of terms of the Act

Human Rights Act 1998 (HRA)

The HRA embodies Article 8 of the European Convention which protects a person's right to a private and family life. Thus it protects the right to remain private about identity.

Any information held about a person is therefore to be kept secure and not shared unless the person gives permission. There is an exception where there is a safeguarding issue or where a crime has been committed.



Version Tracking:

Version	Author / revisions by	Changes summary	Approved by	Date
1.0	Principal	Original version, to be adopted as a working version, prior to SU consultation.	(Draft)	Oct 2020
1.1	Quality Manager (Risk and Audit)	Version formatting, pagination and contents	Board of Governors	Jan 2022