

**“Health and Social Care: Gender Identity and Expression - Employment Policy”
Report on Outcome of Consultation on the draft Policy (Jan to Mar 2017)**

Summary of comment	Response
<p>Paul Mclwaine – Probation Board Northern Ireland</p> <p>Informative and thought provoking policy and screening.</p>	<p>We have noted this comment.</p>
<p>Deirdre McNamee – Public Health Agency</p> <p>Introduction which sets the context regarding organisations’ commitment to equality viewed very positively. A very practical document. It will be hugely beneficial for HR and Line Managers.</p> <p>Suggestions for consideration:</p> <p>Page 1 – First paragraph (name of organisation) change ‘are committed’ to is committed.</p> <p>Page 2 – Paragraph relating to MH – change “their birth sex” to “the gender assigned to them at birth” in line with preferences expressed by some transgender individuals but terminology may have changed again recently.</p> <p>Re ordering this to the paragraph below, might be a better lead regarding multiple identities and not sit out as a major issue.</p> <p>Page 3 – the word procedure is used – should this be</p>	<p>The wording of the policy has been amended accordingly.</p> <p>This paragraph has been amended (see response to the respective suggestion by Unison below).</p> <p>As the title is already quite lengthy we plan to refer to</p>

<p>in the title of the document also?</p> <p>Page 7 – It may be worthwhile mentioning that individuals who identify as Transgender have also been involved in helping to inform the policy, you mention internal/external groups, might be worth considering from PPI perspective.</p> <p>Page 10 – Paragraph 2 refers to both ‘undergone’ and ‘underwent’, was both intended to be included?</p> <p>Page 11 – reference to lgblearning – might be better to say “can be accessed via internet http:// etc and via the intranet http:// The reference to version might suggest that they are different in some way.</p> <p>Page 13 – Background Checks (AccessNI) paragraph 2 as this information is for the individual it might be worth saying “you should inform the individual that they will be required etc etc”.</p> <p>Page 16 – the word <i>after</i> is used re TENI, should this be Reference?</p>	<p>the document as policy with associated guidance and procedure in the roll out instead.</p> <p>The policy has been amended accordingly.</p> <p>The policy has been amended to refer to ‘undergone’.</p> <p>The wording of the policy has been amended accordingly.</p> <p>We have chosen a more neutral wording as there will be cases when the employer will not know the gender identity of an applicant.</p> <p>The wording of the policy has been amended accordingly.</p>
<p>Mary Black – Public Health Agency</p> <p>Policy is very clear and helpful, informing everyone about the issues and importantly the language associated with the policy.</p> <p>Suggestions for consideration: Testing the draft policy with those most affected by this issue, to ensure nothing is missing and to help in the</p>	<p>The engagement and consultation with individuals directly affected has been invaluable in informing the</p>

<p>co-design process.</p> <p>An e-learning package, as well as training in relation to the introduction of the policy, helping staff understand the relevance to themselves and others.</p> <p>Include a small paragraph which sets out the scale of the issue, albeit that data is incomplete.</p> <p>Page 3 – “Benefits for the organisation” – add another line like ‘Ensures that (name of organisation) gains maximum contribution from content and productive employees’.</p>	<p>development of the policy. We anticipate that vital learning will continue to emerge as HSC organisations begin to implement the policy, and in particular as transgender and non-binary members of staff come forward for support. We will ensure that this learning helps to refine the policy over time.</p> <p>We agree that we need to provide learning and development activities for our staff as we roll out this policy in our organisations.</p> <p>This has been added accordingly.</p> <p>This has been added accordingly.</p>
<p>HSC Pensions</p> <p>an inaccuracy in the draft policy on the section regarding Pensions. It states “Provided a member has at least two years membership, a death gratuity is payable when a member dies in service and may also be payable if a member dies within 5 years of retirement. Members can nominate a person to receive this benefit by completing a Death Benefit Nomination Form. Further</p>	<p>The policy has been amended accordingly.</p>

<p>information is available on the HSC Pensions website.”</p> <p>A death gratuity is payable when a member dies in service, there is no requirement to have at least 2 years membership. I propose therefore the following change to the wording, after discussion with Departmental Policy Unit</p> <p>“A death gratuity may be payable when a member dies in service and may also be payable if a member dies within 5 years of retirement. Members can nominate a person to receive this benefit by completing a Death Benefit Nomination Form. Further information is available on the HSC Pensions website.”</p>	
<p>Lisburn City Council</p> <p>Equality Screening Response Form</p> <p>Q1</p> <p>It would be acknowledged that this is a sensitive matter and that information and data may not be readily available. However, hopefully in the future data sources will improve and as a consequence the needs of this group more directly identified.</p> <p>Q2</p> <p>The policy is focussed on those within employment who intend to, are undergoing or have undergone transition. However, those individuals who remain “invisible” at this time, for whatever reason, would</p>	<p>We have noted this comment.</p> <p>We agree with this comment. Our understanding of the specific needs of people who do not transition is rudimentary. We need to build our knowledge as we begin to implement the policy.</p>

<p>continue to be a group that may require further work to ensure their identification in the future.</p> <p>Q3 The actions would appear to be relevant and appropriate at this time.</p> <p>Q4 No further suggestions or comments (other than those noted above) at this time.</p>	
<p>Margaret Devlin – RCN Representative</p> <p>welcome a policy which seeks to establish consistency in the approach taken to those among us who are dealing with gender identity and expression issues.</p> <p>Suggestions for consideration: page 11 when detailing the types of support available make reference to the support that can be provided by Trade Unions. There is brief mention made of Trade Unions on page 4. Most if not all Trade Unions have active LBGT forums that could be brought to the attention of any members requiring support.</p> <p>page 12 reference is made to the fact that at present same sex marriage is not recognised within Northern Ireland with a consequent impact upon pension rights for any person who may have married. There is</p>	<p>We have noted this comment.</p> <p>See additional information included in Appendix 1 now.</p> <p>If changes are made to the law in Northern Ireland this policy will be updated to reflect these.</p>

however a movement to have same sex marriage recognised. This document should reflect that possibility.

There was also the recent decision with regards to survivor pensions recently taken by the Supreme Court. Many partners who had not been named had been denied access to pensions due to not being married. This decision seems to suggest that marriage is not essential when there is prove of the relation/ partnership. Could this be a future equality issue?

While the document refers to employees undergoing the process it omits to mention those staff who may find themselves supporting partners or relatives including children through transition/ gender issues. Thought needs to be given to this group of people. The treatment they are given as employees could impact upon the rights of gender identity/ expression the policy seeks to protect.

Equality Screening Response Form
Q2

The gender identity of unmarried, co-habiting partners is not questioned when ascertaining entitlement to survivors benefits. The ruling has removed any potential equality issue as the need to have a completed nomination form in place before death has been removed. Though no longer mandatory, we still recommend that as a matter of good practice and to ensure the prompt payment of survivor's benefits that unmarried co-habiting members should still submit the PN1 form to nominate their partner to receive a Survivors pension.

We recognise that staff who are family or carers of a person who identifies as transgender or non-binary may have particular welfare needs. We have added a note to the policy to this effect.

<p>Will the recent Supreme Court Decision on survivor pensions have potential to impact on this matter? It seemed to suggest that you did not need to be married or sign a form. You did however have to evidence a partnership.</p> <p>Q3 See above. Will this be a new equality issue?</p> <p>Q5 Not completely. I have reservations in regards to the assessed impact of the policy. The strength of the impact can only be fully realised however upon implementation.</p>	<p>It is not pension law that requires the transitioned individual to divorce. Once divorced, the new status of the couple allows them to remain entitled to survivor benefits.</p> <p>We note the comment. Close monitoring and review of the policy will be essential to incorporate learning from the implementation of the policy.</p>
<p>Focus</p> <p>We are keen that all those involved in drafting this policy hear how delighted we are that you have taken this great step forward to develop a coherent and consistent approach across your various organisations to ensure equality of recruitment and retention of Transgender individuals in your workforce. We acknowledge and applaud the efforts that you have gone to in attempting to ensure the policy is as inclusive as possible of the sometimes divergent views that were expressed in your various focus group discussions. We would be quite happy to endorse your draft with the</p>	<p>We have noted this comment.</p>

following few minor tweaks and comments:

- First Para page5 first line remove “ and non-binary staff”
- Page 5 add a new para3 along the following lines:
“The issue of appropriate and acceptable dress codes for staff who self -identify as non-binary (particularly those whose sense of identity and gender expression is fluid) should always be addressed in consultation with the employee, Human resources and Direct Line Manager, bearing in mind the needs of the role, service and possible adverse effects on service uptake and perceptions.
Here it should be recognised that whilst transgender individuals are specifically protected under existing sex discrimination and gender recognition equality legislation, those who specifically identify as “non-binary” have no such protection at present but all staff should endeavour to act as sensitively and inclusively as possible to accommodate the genuinely held views, identity and gender expression of their non-binary colleagues, in line with our Equality of Opportunity Policy, Working Well Together Policy and our Bullying and Harassment Policy” (The need for these corrections should be self

Staff who identify as non-binary have the same rights as all other staff to express their identity including through the way they dress within the parameters of existing dress arrangements.

<p>explanatory from the suggested text itself)</p> <ul style="list-style-type: none"> • “Training and Awareness” – whilst we welcome the commitment to access to “appropriate training and awareness materials”, it is important to recognise that such training and materials are best delivered by individuals and organisations with the “lived experience “of the issues covered. • Glossary: Under Transition we suggest you change “coming out” to “disclosing” (Transgender individuals choose to disclose their true identity, only the LGB community “come out”) • Glossary: Intersex: We suggest you revise your definition to the following as it is a more generally accepted globally “Intersex people are born with sex characteristics (including genitals, gonads and chromosome patterns) that do not fit typical binary notions of male or female bodies. Intersex is an umbrella term used to describe a wide range of natural bodily variations. In some cases, intersex traits are visible at birth while in others, they are not apparent until puberty. Some chromosomal intersex variations may not be physically apparent at all. Being intersex relates to biological sex 	<p>We have noted this comment.</p> <p>We have changed the wording accordingly.</p> <p>We have changed the wording accordingly.</p>
--	--

characteristics, and is distinct from a person's sexual orientation or gender identity. An intersex person may be straight, gay, lesbian, bisexual or asexual, and may identify as female, male, both or neither.”

UN High Commissioner’s fact sheet on Intersex Conditions Sept 2015

- **Contacts and Resources:**

We suggest the following changes and additions to this section:

Websites

www.transgenderni.com

We suggest you change the underlying information to read “ a website originally but no longer funded by PHA and developed in partnership with OYSTERS Transgender Peer Support Group and Youth net NI Ltd (both no longer in existence). Now a static sign-posting page maintained and controlled by an individual who claims to represent a group of “Transgender Umbrella” and Non-binary Organisations.”

Include:

www.thefocustrust.com

Website of FOCUS: THE IDENTITY TRUST, dedicated exclusively to the issues relevant to and affecting the lives of transgender and

Given the frequency of changes in contact details for groups based in Northern Ireland, we will include details on these groups in a wider Section 75 signposting resource and similar materials that are updated every year. We are keen to avoid the policy itself becoming out of date in this respect.

intersex individuals and their families on the island of Ireland.
Contains easily understood information and practical advice on all issues from treatment protocols, legal advice regarding changing documentation to accessing dedicated peer support in individual and group settings. Website also includes news of all latest developments in relation to worldwide Human Rights and Equality for Transgender and Intersex issues together with editorial content and details of FOCUS's own lobbying and advocacy initiatives on behalf of its own constituency.
focustheidentitytrust@gmail.com

Include

“The Gender Identity Panel”
secretariatGIDfocus@gmail.com
Tel: 07845921597

The first of its kind, a new panel made up of transgender individuals, members of their families and influential political and societal leaders. The panel will engage with and advise government and organisations in fulfilling their obligations towards transgender people and their families and to increase their inclusion in society. The Gender Identity Panel will empower transgender and intersex people and their families, not only to enhance their quality of life

<p>but to achieve immediate and lasting change.</p>	
<p>Unison</p> <p>Overall, we welcome the development of this policy to enable transgender including non binary people to be fully included as staff or potential staff of the HSC.</p> <p>Page 1: We are concerned about the limitation of the term ‘transgender’ to those who undergo gender reassignment even with the qualification given.</p> <p>Transgender: Refers to a person whose gender identity and/or gender expression differs from the sex assigned to them at birth. This term can include diverse gender identities. (as per TENI). Some individuals do not fall within the accepted biological distinction male and female. Other individuals have differing genotypes and or secondary sexual characteristics. Some transgender people choose to transition including medical gender reassignment, but others choose not to or cannot.</p> <p>Within the definition of non binary, it appears that non binary and transgender are mutually exclusive which they are not. We believe it would be useful to state after the current bullet point. Non binary people fall within the broader definition of transgender.</p>	<p>We have noted this comment.</p> <p>Throughout the development of this policy we have closely considered the range of definitions and their evolution. We are open to change our use of terms as the discourse evolves and are committed to review this regularly. We have added a note to this end to the policy.</p>

<p>We then suggest that subsequent references should be 'transgender including non binary people..'</p> <p>Page 2 The paragraph beginning .. Many transgender ... we suggest "Transgender and non binary individuals frequently face discrimination, prejudice and the stigma associated with their difference. Social isolation, breakdown in family relationships and depression often results"</p> <p>Page 3 We welcome the commitment to train all staff involved in recruitment and selection. We recommend that an option of Mx alongside Ms, Mrs, Mr etc is facilitated on recruitment and selection processes and on HRPTS.</p> <p>Page 4 The phrase 'begun or completed transitioning' implies a definite start and end point to transition. We recommend amending it to 'an individual who transitions' In relation to Genuine Occupational Requirement – we are unsure as how this will be accommodated within the definition of someone who identifies as non binary but that is probably a question for the Equality</p>	<p>We have changed the wording accordingly.</p> <p>We have noted this comment.</p> <p>We will explore opportunities for amending the system and processed.</p> <p>The wording has been amended accordingly.</p> <p>Genuine Occupational Requirements are very rarely used in Health and Social Care organisations. We note the comment and will seek legal advice on a case by case basis.</p>
---	--

<p>Commission.</p> <p>Page 5 We don't agree with the phrase 'undergo or are undergoing gender reassignment' as this represents only some transgender people who opt for medical processes. We feel that the phrase 'are intending to transition or are transitioning' is more inclusive. This should be reflected throughout the document.</p> <p>In Roles and Responsibilities – we recommend an additional bullet point Ensure alternative working arrangements will be made available in the event of direct or indirect discrimination or harassment from other staff members or members of the public.</p> <p>Page 6 Staff who identify as transgender or non binary. Suggest just using 'Transgender including non binary staff'.</p> <p>Page 7 We have reservations about inclusion of 'a member of the LGBT staff forum' as we are unsure if there is a capacity within what is a voluntary network of individuals who may not necessarily have any training or knowledge of transgender issues. The forum is</p>	<p>The wording has been amended accordingly.</p> <p>The action taken as a result of discrimination will depend on the particular circumstances of the case. There will be cases in which it will be appropriate that the perpetrator is moved rather than the victim.</p> <p>See earlier comment on the use of terms in this policy and our commitment to keep this under review.</p> <p>We have amended the policy accordingly.</p>
---	--

<p>also confidential so members may not be prepared to disclose their involvement. While the PHA provides secretariat support, there are no staff with particular expertise.</p> <p>We would encourage line managers and HR to signpost people to the forum for general information and support.</p> <p>We do feel that it would be useful to include reference to trade union rep along with their line manager and HR.</p> <p>We are concerned by the inclusion of the policy of ‘the earliest opportunity’ as this places undue pressure on someone who may be terrified to come out. The policy should make clear that it should be at the appropriate time, not necessarily the earliest opportunity.</p> <p>Page 10 Typo in para 2 – ‘undergone underwent’</p> <p>In paragraph 2, while we recognise the sentiment, we think it could be regarded as singling someone out even though their gender expression may have no bearing on their post at all. We believe it could be phrased more positively. Suggest</p> <p>‘Likewise, when a new member of staff decides to voluntarily to make us aware that they have transitioned in the past, an offer will be made to meet to discuss any issues they may wish to explore, should they wish.’</p>	<p>We have added this to the policy.</p> <p>This has been added to the policy.</p> <p>We have amended the policy accordingly.</p> <p>Amended.</p> <p>We have amended the policy accordingly.</p>
--	--

<p>We suggest that reference to the Memorandum of Understanding should include ‘will be led by the individual’ as what one person who is transitioning may want is very different to another.</p> <p>Page 11 The PHA’s elearning module includes very little about transgender and makes no reference to non binary, so we recommend that a new elearning module is commissioned or the current one is updated which can provide additional support. We welcome the intention to mainstream transgender awareness into mainstream training.</p> <p>Working Arrangements and Absence Management We recommend that it is noted that while often the series of appointments and treatment is time limited, they can be regular and reoccurring. This provides a challenge for people transitioning as attendance at some appointments is gauged as a reflection of their commitment to the transition process.</p> <p>Page 12 Handling Records We recommend that the responsibility under the GRA is stressed more strongly to individual staff and is not limited to those who handle information or just regarded as a corporate responsibility. Suggest after</p>	<p>We have amended the policy accordingly.</p> <p>We are in the process of developing a new eLearning module with a scenario dedicated to gender identity issues.</p> <p>We have amended the policy to reflect these comments.</p>
---	--

<p>Unjustified disclosure may be a criminal offence.... This applies to all staff including those involved in handling records and colleagues of transgender staff. The phrase 'acquired gender' should be amended to 'correct gender' We are unsure whether a couple in Northern Ireland where one person has transitioned is obliged to divorce unless they seek a Gender Recognition Certificate – we suggest checking this out with the Equality Commission or BSO legal services.</p> <p>Page 15 See definition of transgender as earlier recommended</p> <p>Page 16 Presume wording should be (as per Transgender Equality Network Ireland TENI)</p> <p>Page 17 I wouldn't include LGBT Staff Forum under counselling heading or perhaps use Counselling / Support</p> <p>Page 20 The phrase 'transgendered' is inappropriate – recommend 'transgender'</p>	<p>We have added this wording to the policy. We have amended the policy accordingly.</p> <p>Legally a person remains the gender assigned to them at birth unless and until they obtain a Gender Recognition Certificate. A person who has transitioned but not obtained a Certificate may divorce if they choose to do so but is not obliged to. However, in Northern Ireland divorce is a precondition to obtaining a Certificate.</p> <p>See our earlier response.</p> <p>This definition has been replaced (see comment and response under Focus).</p> <p>This will be a separate heading.</p> <p>This has been amended.</p>
---	--

<p>Page 21 Absence from work We recommend that the list of leave options is included not just annual leave as that leads to a presumption that annual leave should be taken.</p>	<p>We have amended the wording of the policy to refer to leave generally.</p>
<p>Claire McGuigan (Northern Health and Social Care Trust) p. 2/3 “[name of organisation] believe that there are a number of benefits for both our organisation and transgender and non-binary individuals in having a policy in place: Benefits for the individual:...”</p> <p>Where is the evidence base for these statements? There is a wealth written on this in journals.</p> <p>p.3 “Benefits for the organisation:...” Take out "supports the need to" it implies half-hearted approach. It should read “promotes and open and accepting place for everyone to work and be valued.”</p> <p>p.4 “The [name of the organisation] supports the Lesbian, Gay, Bisexual and Transgender (LGB&T) Health and Social Care (HSC) staff forum. [name of organisation] will provide information to transgender and non-binary staff on how to access the forum (see Appendix 1).”</p>	<p>There is a dearth of research to date in relation to gender identity in the workplace. Hence, we have used a cautious wording in this respect.</p> <p>We have amended the wording of the policy.</p>

<p>Add “And to all staff to make them aware that this support is available to them and their colleagues to create opportunities for shared understanding.”</p> <p>p.5 “[name of organisation] also support the right of all transgender and non-binary staff to dress (including wearing makeup) in line with the expression of the gender they identify with, while adhering to any local uniform and dress arrangements.”</p> <p>Has the uniform policy been connected to this one?</p>	<p>We have added this to the policy.</p> <p>All new policies will be equality screened to include the consideration of needs of specific groups of staff including people who identify as transgender and non-binary.</p>
<p>SAIL</p> <p>SAIL support the BSO’s proposed Policy as out for consultation for use within HSCNI.</p> <p>Consider it an example of very good practice within employment settings due to its consistent reference to the trans community as a diverse and multifaceted community, and to the use of up-to-date language, context and procedure throughout,</p> <p>Would be delighted to see it introduced and implemented regionally across the health service in Northern Ireland.</p> <p>Of particular welcome are the references to non-binary people, and trans people who may not / cannot</p>	<p>We have noted these comments.</p>

