



Government  
Equalities Office

# **Government Response to the Women and Equalities Committee Report on Transgender Equality**

July 2016





# **Government Response to the Women and Equalities Committee Report on Transgender Equality**

Presented to Parliament  
by the Minister for Women and Equalities  
by Command of Her Majesty

July 2016

Cm 9301



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## Foreword

A commitment to equality is at the heart of this Government and is essential to building a strong economy and a fair society. We want to build a society that celebrates and benefits from the talents of everyone; ensuring fairness, protecting the most vulnerable, and prioritising equal opportunities for all.

We know that transgender people face continuing transphobia, increased mental health issues, discrimination in the provision of public and private services and bullying in our schools. That is why I made transgender equality a key priority for my department after the General Election last year. From providing guidance to employers and service providers, to ensuring transphobic bullying is tackled head on in schools, I have made sure that government has gone further in this area than ever before.

The UK has been a world leader on transgender rights and I am proud of the considerable work done to date on this important agenda, including the publication of the first ever action plan on transgender equality in 2011.

Following that, I welcome the first report from the Women and Equalities Select Committee into Transgender Equality. I especially give thanks to the transgender people and others who have provided evidence to the Committee; it was vital that their testimony was heard.

I am pleased we have the opportunity to show the breadth and depth of the work that we have planned. We will be developing a new action plan for transgender equality, which will include, amongst other actions:

- A review of the Gender Recognition Act to tackle unnecessary bureaucracy and to assess the need for medical checks contained within the 2004 Act;
- Conducting a cross-government review on removing unnecessary requests for gender information, including in official documents;
- Improving the way people are supported by gender identity services through new training of NHS staff;
- Tackling harassment and bullying in higher education by working with universities;
- Assessing how to measure the size of the UK's transgender population so that policy can be more evidence-based and we can track the impact of our work;
- Measuring and monitoring public attitudes towards transgender people.

Nobody should suffer discrimination, harassment or bullying because of who they are. As a country we have come a long way in terms of lesbian, gay and bisexual equality, but of course we have much further to go. We also now need the same national determination to see true equality for transgender people.

I am confident that the initiatives set out here will help make this a reality and improve the lives of transgender people – but this is just the start and we still have much to learn. I look forward to working further with transgender people and others to continue driving progress towards a society which is truly equal; where everyone is free to be themselves.

A handwritten signature in black ink that reads "Nicky Morgan". The signature is written in a cursive, flowing style.

**Nicky Morgan**  
**Minister for Women and Equalities**

## **Introduction**

The Women and Equalities Select Committee's (WESC's) first report of the 2015-16 Session *Transgender Equality* was published on 14 January 2016.

The WESC's report made 35 recommendations in relation to a wide range of areas including cross-Government strategy, the Gender Recognition Act 2004, the Equality Act 2010, NHS services and on tackling everyday transphobia.

The Government welcomes the WESC's work and recommendations on the very important and emerging issues around transgender equality and we set out our response below.

As part of our response to the recommendations on the Gender Recognition Act 2004, the Government commits to a review of the Gender Recognition Act to determine whether changes can be made to improve it in order to streamline and de-medicalise the gender recognition process.



## Cross-government strategy

**The Minister for Women and Equalities and the Government Equalities Office have a cross-government role in respect of trans equality. The 2011 Advancing Transgender Equality action plan remains largely unimplemented.**

### **Recommendation 1**

**Within the next six months, the Government must agree a new strategy which it can deliver, with full cross-departmental support. (Paragraph 26)**

### **Recommendation 2**

**It must also draw up a balance sheet of the previous transgender action plan, confirm those actions which have been completed and agree a new strategy to tackle those issues which remain unaddressed. This must be done within the next six months. It should set out clearly the areas of responsibility and lines of accountability in the public sector regarding trans equality issues. It should also include a wholesale review of issues facing non-binary and non-gendered people. (Paragraph 26)**

### Government response

The Government thanks the Committee for its recommendations in relation to the 2011 action plan, *Advancing Transgender Equality*. The vast majority of commitments in this plan have been met and have made some real, positive changes for the transgender community, such as reforming Ofsted school inspections to give all forms of prejudice-based bullying more prominence, producing hate crime guidance for all police officers, and publishing guidance on transgender issues for employers and service providers.

We are monitoring the remaining commitments and will publish an update report on both the existing Transgender Action Plan and the 2011 LGB&T Action Plan (which includes LGB as well as transgender commitments).

We are clear that transgender issues remain a priority for this Government. We will produce a new action plan on transgender equality, highlighting the work across Government being carried out on transgender issues, which will include any actions resulting from the WESC's report. We will continue to work across Government to ensure that the issues of transgender people are taken into account where necessary.

### **Recommendation 3**

**The Government must also make a clear commitment to abide by the Yogyakarta Principles and Resolution 2048 of the Parliamentary Assembly of the Council of Europe. (Paragraph 27)**

### Government response

We welcome the work of the Council of Europe and the Parliamentary Assembly in this area, and their call to improve the lives of transgender people across Europe. We have noted the ideals set out in the Yogyakarta Principles and Resolution 2048

of the Parliamentary Assembly of the Council of Europe. We strongly support the work of international organisations such as the Council of Europe to counter discrimination on all grounds, including against transgender people. We look forward to working with all partners and continuing to learn from one another.

The independent and non-binding Non-Governmental Yogyakarta principles provide recommendations on how best to implement existing international human rights law. However, we believe that existing international and domestic legislation provides adequate protection for transgender people, and that those mechanisms already in place for ensuring effective implementation are adequate. We are committed to meeting all obligations placed upon us by international and domestic law and are party to all United Nations Human Rights conventions relevant to this area.

The UK has been in the forefront of transgender equality in Europe for many years and we can be proud of our legislative record in this area; we have been consistently rated as one of the top countries in Europe for safeguarding the rights of LGB&T people by the International Lesbian and Gay Association Europe. We are party to all United Nations Human Rights conventions relevant to this area and regularly report on their implementation. We are also one of the key global advocates of international human rights law through our work at the United Nations (UN), the European Union, the Council of Europe and other international fora, but also through our bilateral relationships with other countries. We are fully committed to the principles of equality and non-discrimination that underpin the international human rights system, and work hard to promote universal respect for the protection of human rights and fundamental freedoms for all, without distinction of any kind and in a fair and equal manner.

We are committed to enhancing our alignment with international best practice in this area by working with UN Treaty Bodies and other interested parties, and with other States through the Universal Periodic Review (UPR) process. We report regularly on the implementation of our human rights obligations internationally. We are keen to see that the rights of all LGB&T people are mainstreamed across existing procedures and frameworks.

In 2016/17, the Foreign and Commonwealth Office (FCO) will dedicate approximately £900,000 of the Magna Carta Fund for Human Rights and Democracy to projects working with LGB&T communities around the world. The projects will work with partners based in central, eastern and south-eastern Europe and in Africa and aim to: improve institutional protection against discrimination; remove or amend discriminatory laws, policies and practices; reduce hate speech, violence or harassment based on discrimination; and increase the participation of LGB&T communities in their societies, including by building the capacity of civil society groups to advocate for the protection of the rights of LGB&T people locally.

The FCO continues to work at the international level to tackle discrimination. The UK is committed to championing universal rights and to strengthening the protection of human rights in the UN's work. This includes translating the 2030 Agenda on Sustainable Development into action, leaving no one behind. We are proud to be a member of the 'core group' working to further LGB&T rights at the UN through the

informal network of UN member states committed to ensuring the rights of LGB&T persons are appropriately protected in UN fora.

We continue to be a leading voice for the recognition of the rights of LGB&T persons in relevant UN resolutions and we welcome the adoption by the UN Human Rights Council on 30 June 2016 of a resolution addressing violence and discrimination on the basis of sexual orientation or gender identity and the establishment of an Independent Expert in this. This is a positive step that will reinforce a more coordinated international approach to protecting LGB&T people from violence and discrimination. The United Kingdom offers its full commitment to supporting the Independent Expert in their work.

### Gender Recognition Act 2004

#### **Recommendation 4**

**The Government must look into the need to create a legal category for those people with a gender identity outside that which is binary and the full implications of this.**

(Paragraph 31)

### Providing proof

#### **Recommendation 5**

**Within the current Parliament, the Government must bring forward proposals to update the Gender Recognition Act, in line with the principles of gender self-declaration that have been developed in other jurisdictions. In place of the present medicalised, quasi-judicial application process, an administrative process must be developed, centred on the wishes of the individual applicant, rather than on intensive analysis by doctors and lawyers.** (Paragraph 45)

### Age limit

#### **Recommendation 7**

**We recommend that provision should be made to allow 16- and 17-year-olds, with appropriate support, to apply for gender recognition, on the basis of self-declaration.**

(Paragraph 70)

#### **Recommendation 8**

**We are very cautious about recommending gender recognition in respect of children aged under 16 (subject to parental consent or self-declaration on the basis of Gillick competence), and believe the Government should further consider the possible risks and benefits.** (Paragraph 71)

### Government response

We are grateful for the Committee's detailed considerations and views on the Gender Recognition Act 2004 in relation to the needs of non-binary people, the principles of gender self-declaration, converting the application process to an

administrative process, and to extending legal gender recognition to transgender people aged 16-17, and possibly to children under 16.

In line with Government's commitment to furthering transgender equality, we will keep these issues under consideration. The Government will review the Gender Recognition Act to determine whether changes can be made to improve it in order to streamline and de-medicalise the gender recognition process.

However, we share the Committee's concerns in respect of age. We would like to see more evidence on the case for change and the implications of altering the minimum age, moving to a self-declaration process and extending legal recognition to non-binary gender identities. We will therefore monitor the implementation of alternative gender recognition processes in other jurisdictions and we will analyse the evidence placed before the Committee to inform our work.

### Spousal consent

#### **Recommendation 6**

**We do take very seriously the evidence that we have heard regarding the scope that the spousal-consent provision gives for married trans people to be victimised by spouses with malicious intent. Where this occurs, it is, of course, deplorable and inexcusable. (Paragraph 63)**

**The Government must ensure that it is informed about the extent of this and ways of addressing the problem. (Paragraph 63)**

#### Government response

We are grateful for the Committee's considerations on this matter and the views captured in their report.

We will continue to monitor this issue. Since the introduction in December 2014 of the gender recognition provisions of the Marriage (Same Sex Couples) Act 2013, the Ministry of Justice can confirm that 74 married transgender people have successfully gained a Gender Recognition Certificate.

### Data protection

**Evidence we received demonstrates abuse of confidential information about people's trans status, contrary to Section 22 of the Gender Recognition Act, which is intended to protect trans people against "outing". However, we note that not a single prosecution has yet been brought under this Section. There is a grave danger that this provision will become (if it has not already become) a "dead letter". (Paragraph 87)**

#### **Recommendation 9**

**The Ministry of Justice must investigate why there have not been any prosecutions and take action to address this. It must also work with the courts to tackle the issue of trans people being inappropriately "outed" in court proceedings. (Paragraph 87)**

## Government response

The intention of Section 22 of the Gender Recognition Act is that it should function as an effective deterrent for both individuals and organisations against disclosing information about a transgender person's gender history.

However, we recognise the concerns raised with the Committee's report that the provision will become a "dead letter", and would like to assure the Committee that the Ministry of Justice has commenced discussions to ascertain why there have not been any prosecutions under Section 22 of the Gender Recognition Act.

All HM Courts and Tribunals Service staff are obliged to undertake equality and diversity training, which includes an overview of legal responsibilities under the Equality Act 2010. Similarly, equality guidance provided to the judiciary specifically addresses the issue of gender reassignment, and provides advice on how to prevent transgender people from being 'outed' in court proceedings.

## Gender reassignment as a protected characteristic

### **Recommendation 10**

**The protected characteristic in respect of trans people under the Equality Act should be amended to that of "gender identity". (Paragraph 108)**

## Government response

We welcome the acknowledgement that the Government's inclusion of gender reassignment as a protected characteristic in the Equality Act 2010 has improved the lives of transgender people and has been effective in encouraging employers and service providers to take into account the needs of transgender people. The Equality Act replaced a similar provision in the Sex Discrimination Act 1975<sup>1</sup>, broadening coverage significantly by removing a requirement for a person to be under medical supervision, and because the Act does not require a person to hold a Gender Recognition Certificate in order to have the protected characteristic. The provision of a protected characteristic of "gender reassignment" in the Act is fully compliant with our obligations under the Equal Treatment Directive (2006/54/EC).

Discrimination, as defined in the Equality Act 2010, means treating someone less favourably because of a protected characteristic; it is not necessary for the person actually to have that protected characteristic themselves. Wider categories of transgender people, such as cross-dressers, non-binary and gender fluid people are protected if they experience less favourable treatment because of gender reassignment - for example, if they are incorrectly perceived as undergoing gender reassignment when in fact they are not, or incorrectly perceived to be male or female, perhaps because they do not comply with what society normally expects of men or of women.

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<sup>1</sup> Gender reassignment' is regarded under European jurisprudence as a subcategory of sex discrimination

The Government is working to ensure that everyone is treated fairly and with respect, including those within the wider transgender community. In November 2015 the Government published two pieces of guidance to help employers and service providers to engage with transgender people effectively. The guidance for service providers<sup>2</sup>, produced in partnership with Gendered Intelligence, sets out guidance and good practice examples to help ensure transgender people are welcomed, included and valued as customers, clients, users or members, and to ensure that they are treated fairly and appropriately. It also aims to help service providers comply with the law. The guidance for employers<sup>3</sup>, produced in partnership with Inclusive Employers, is designed to provide employers with practical advice, suggestions and ideas on the recruitment and retention of transgender employees and potential employees. It is also a useful guide for managers to comply with the law, and for transgender staff themselves.

We will keep this under review and will continue to listen to and monitor people's experiences of discrimination, harassment or victimisation.

### **Recommendation 11**

**The Equality and Human Rights Commission must be able to investigate complaints of discrimination raised by children and adolescents without the requirement to have their parents' consent.** (Paragraph 109)

#### Government response

No such restriction exists on the Equality and Human Rights Commission's (EHRC's) power to investigate complaints of discrimination, and we are not aware of any legal basis for the statement in Mermaids' written evidence to the Committee that "*a young person of 16 wanted their name changing at school but their parents did not consent to this. Although the Equality and Human Rights Committee [sic] found the schools [sic] refusal to comply was discriminatory, they could not proceed with action against the school as the young person was under 18.*" The Committee may wish to note that, in order to comply with the Data Protection Act 1998, the Equality Advisory and Support Service may pass an individual's details to the EHRC only with the explicit consent of the individual. The case referred to in Mermaids' written evidence was not referred to the EHRC. EHRC staff have met with Mermaids recently to clarify how the referrals process operates.

#### Exemptions in respect of trans people

### **Recommendation 12**

**We recommend that the Equality Act be amended so that the occupational requirements provision and / or the single-sex / separate services provision shall not apply in relation to discrimination against a person whose acquired gender has been recognised under the Gender Recognition Act 2004.** (Paragraph 132)

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<sup>2</sup> <https://www.gov.uk/government/publications/providing-services-for-transgender-customers-a-guide>

<sup>3</sup> <https://www.gov.uk/government/publications/recruiting-and-retaining-transgender-staff-a-guide-for-employers>

### Government response

We agree with the principle of this recommendation, that those who sought and have completed a gender transition - and who have secured a Gender Recognition Certificate - should be afforded the full legal and social status of their acquired gender.

The Government welcomes the good practice highlighted to the Committee, for example, by providers of services to domestic abuse survivors that include transgender women as far as possible. We will continue to encourage service providers to share good practice within their sectors. To support service providers in treating transgender customers appropriately and lawfully we recently published *Providing Services for transgender customers: a guide*<sup>4</sup>. This new guidance, produced in partnership with Gendered Intelligence, sets out guidance and good practice examples to help ensure transgender people are welcomed, included and valued as customers, clients, users or members, and to ensure that they are treated fairly and appropriately. The guide explicitly addresses the sensitive issue of separate and single-sex services, making it explicitly clear that the exception can only be used in exceptional circumstances and where there is no less discriminatory way of providing the service. It also notes that it is very unlikely that any exceptions will apply in ordinary 'high street' service provision situations. The Equality Advisory and Support Service, funded by the Government Equalities Office, can provide advice in those cases where service users feel they may nonetheless have suffered discrimination.

In addition, recently published guidance, *The recruitment and retention of transgender staff – guidance for employers*<sup>5</sup>, produced in conjunction with Inclusive Employers, states clearly that: “*very careful consideration should be given before applying a genuine occupational requirement. Such restrictions are rare and, if wrongly applied, unlawful.*” The EHRC provides advice for employers on the use of genuine occupational requirements (GORs) in the relevant section of the Employment Statutory Code of Practice<sup>6</sup>.

We understand the concerns being raised by some transgender people about the provisions. The Government is keen to ensure that that law in this area operates fairly and is not abused, therefore we are keen to receive further representations and evidence on the availability and use of the exceptions in the Equality Act 2010 from all affected parties to take into account for future policy discussions.

### Separate-gender sport

#### **Recommendation 13**

**We recommend that the Government work with Sport England to produce guidance which help sporting groups realise that there are likely to be few occasions where exclusions are justified to ensure fair competition or the safety of competitors. (Paragraph 143)**

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<sup>4</sup> <https://www.gov.uk/government/publications/providing-services-for-transgender-customers-a-guide>

<sup>5</sup> <https://www.gov.uk/government/publications/recruiting-and-retaining-transgender-staff-a-guide-for-employers>

<sup>6</sup> <https://www.equalityhumanrights.com/en/publication-download/employment-statutory-code-practice>



## Government response

We agree that there are likely to be few occasions in sport where exclusions are justified to ensure fair competition or the safety of competitors. The Sports Council Equality Group guidance<sup>7</sup>, *Transsexual people and competitive sport: guidance for national governing bodies of sport*, which covers transgender people's eligibility to take part in sport, clearly sets this out.

Government-backed guidance by the Home Country Sports Council Equality Group<sup>8</sup> for transgender sports-people, and other publications (including *Transsexual people and competitive sport: guidance for national governing bodies of sport* and *Transgender and intersex sports provision at the University of Cambridge*) assist sporting groups, university societies, or anyone involved in administering sport, to provide an inclusive, supportive and welcoming environment for transgender people. Guidance makes clear that it is important that a "*transsexual person be treated as belonging to the sex in which they present (as opposed to the sex they were born with) unless there is evidence that they have an unfair advantage, or there is a risk to the safety of competitors which might occur in some close contact sports.*"

The Government wants to continue to do more to remove any barrier that prevents under-represented groups from taking part in sport and wider physical activity. To achieve this, we described our vision for a successful and active sporting nation in *Sporting Future: a New Strategy for an Active Nation* (2015)<sup>9</sup>. This cross-Government strategy sets out the ambition for all relevant departments to work more closely together to create a more physically active nation, where our children and young people enjoy the best sporting opportunities available. We have established a review of the Duty of Care of sports participants at all levels, and this will include mental wellbeing. Led by Baroness Grey-Thompson, the review is establishing a number of focus groups examining equality issues for all groups, including LGB&T. The Duty of Care Review will publish its findings by the end of 2016.

Delivering LGB&T equality is crucial to ensuring everyone engaging in sport can do so in a safe and positive way; we know that LGB&T people are under-represented in sports participation. That is why our strategy commits Sport England to place equal emphasis on the support for LGB&T people in sport as it does for other characteristics protected by the Equality Act 2010.

Sport England consulted on its new strategy<sup>10</sup> *Towards an Active Nation* in May 2016 and committed to championing all forms of diversity in leadership at all levels of the workforce. It also committed to expanding the data it collects on diversity in

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<sup>7</sup> <http://www.sportni.net/sportni/wp-content/uploads/2013/03/TranssexualPeopleandCompetitiveSportGuidanceforNationalGoverningBodies.pdf>

<sup>8</sup> All resources and guidance can be found at: [www.equalityinsport.org/equality-groups/gender-reassignment/](http://www.equalityinsport.org/equality-groups/gender-reassignment/)

<sup>9</sup> <https://www.gov.uk/government/publications/sporting-future-a-new-strategy-for-an-active-nation> (published 17th December 2015)

<sup>10</sup> <https://www.gov.uk/government/publications/sporting-future-a-new-strategy-for-an-active-nation> (published 19th May 2016)



leadership to include LGB&T people. Following recommendations from its Triennial Review, published in September 2015, Sport England is considering funding a national expert organisation that has the skills and expertise to help break down the barriers faced by LGB&T people.

## NHS services

The Government takes the issue of equality very seriously and the publication of the Committee's report provides a valuable opportunity to reflect on the way in which the health and care system responds to the needs of transgender individuals. The Department of Health has worked with NHS England and Public Health England (PHE) to understand the barriers faced by transgender people in accessing high quality, compassionate healthcare, and to consider how the inequalities affecting transgender individuals can be reduced.

To contribute to this work, in January 2016, PHE hosted a national conference which brought together professionals from the public, private, community and voluntary sectors to reflect on the evidence base and emerging practice to improve the health and well-being of transgender people. The Parliamentary Under Secretary of State for Public Health spoke at this event.

As the Committee's report highlights, transgender individuals experience worse mental health than the general population. This was also recognised in the recommendations of the National Suicide Prevention Strategy, and since then PHE and the Royal College of Nursing have developed two toolkits for nurses and health practitioners to support the mental health and well-being of LGB&T young people. PHE has also supported the publication of health factsheets with the National LGB&T Partnership and a range of other projects on LGB&T health. These factsheets have been prepared with the interests and well-being of all members of the transgender community, including young people under the age of 17.

More broadly, PHE continues to support the LGB and T Research Network which provides a virtual network for academics working on LGB&T health inequalities across the UK and a PHE Engagement Forum to allow on-going engagement with them on LGB&T health inequality.

Since 2014 NHS England has embarked upon a substantial programme of work to improve health services for transgender and non-binary people, and it welcomes the opportunity to take account of the Committee's recommendations in its ongoing work. It is evident from the work that has been underway over the last two years that there is a real openness to improvement which has included much more partnership working with both clinicians and transgender stakeholders and organisations representing them. However, NHS England recognises there is still much to do.

In 2016/17 NHS England has delivered on its commitment to deploy further financial increases in specialised gender identity services for adults, and for children and young people, with the aim of improving patient access and the patient experience.

The problems that the Committee has highlighted in the delivery and planning of healthcare services for transgender people will require a coordinated response across a number of public sector organisations, various royal colleges of medicine and professional associations. The breadth and complexity of the problems means

that this is not something that can be ‘fixed’ by NHS England and the Department of Health alone and in many cases, as the Committee has highlighted, there are no ‘quick’ fixes.

An obvious example is that the greatest single obstacle to reducing historically long waiting times for genital reconstruction surgery has not been money, as NHS England has increased investment each year since 2014/15 and is committed to continue to invest more in 2017/18. Rather, it has been the lack of training pipelines for medical and other health professionals with the necessary skills and competencies. It is for this reason that in June 2015 NHS England hosted a multi-agency symposium that, for the first time, brought relevant organisations together to begin the process for agreeing a joint and coordinated action plan for improving health services for transgender people. A second symposium was held in March 2016 with a specific focus on the development of a national workforce and training plan for this specialty. As an outcome of this event, Health Education England and NHS England are currently scoping a joint programme of work that will begin to address recruitment, retention and training issues.

The Department of Health has mechanisms in place in policy-making to ensure our compliance with the public sector Equality Duty across all of the protected characteristics covered by the Equality Act 2010. To contribute to this, the Parliamentary Under Secretary of State for Public Health has asked the Director General responsible for equality to reiterate to senior officials across the Department the importance of reducing health inequalities. The Department welcomes the added momentum that publication of the Committee’s report, and its findings, should bring to our joint efforts to provide better, more accessible services to transgender people.

### Professional regulation of doctors

#### **Recommendation 14**

**The NHS is failing in its legal duty under the Equality Act in this regard. There is a lack of Continuing Professional Development and training in this area amongst GPs. There is also a lack of clarity about referral pathways for Gender Identity Services. And the NHS as an employer and commissioner is failing to ensure zero tolerance of transphobic behaviour amongst staff and contractors.** (Paragraph 184)

**A root-and-branch review of this matter must be conducted, completed and published within the next six months.** (Paragraph 184)

#### Government response

Transphobia in the NHS is completely unacceptable. Whenever someone needs healthcare, medical treatment or social care, they have the right to be treated fairly and not to be discriminated against. The laws mean that all NHS organisations are required to make sure health and social care services are fair and meet the needs of everyone, whatever their background or circumstances.

NHS England is considering how to strengthen current governance arrangements to deliver this recommendation within the timescale set by the Committee. Leadership and coordination are currently provided by NHS England's Task and Finish Group for Gender Identity Services. The terms of reference for this group are likely to be broadened to encompass the problems that the Committee has highlighted around transgender people's experience of primary care, and in accessing general health services.

NHS England will continue to seek expert professional advice from relevant Clinical Reference Groups comprised of professionals and lay people with relevant expertise and will continue to publicly hold itself accountable to people who use gender identity services via its regular Transgender Network workshops.

#### **Recommendation 15**

**The General Medical Council must provide clear reassurance that it takes allegations of transphobia every bit as seriously as those concerning other forms of professional misconduct.** (Paragraph 185)

#### Government response

The GMC has responded directly to the WESC and a copy of the response is included in the annex to this document.

#### Treatment protocols

#### **Recommendation 16**

**We are concerned that Gender Identity Services continue to be provided as part of mental-health services. This is a relic of the days when trans identity in itself was regarded as a disease or disorder of the mind and contributes to the misleading impression that this continues to be the case.** (Paragraph 209)

**Consideration must be given to the transfer of these services to some other relevant area of clinical specialism, such as endocrinology (which deals with hormone related conditions), or their establishment as a distinct specialism in their own right.** (Paragraph 209)

#### Government response

We are supportive in looking at how this recommendation can be achieved. Gender dysphoria is not a mental illness.

This recommendation was discussed at the Clinical Reference Group in February 2016. The complexity of delivering this recommendation was noted, given that all seven Gender Identity Clinics in England are hosted and situated in mental health trusts, and given that there is no single body or organisation that has responsibility or authority for 'transferring' gender identity services to another specialty. However, there was support for looking at how these issues can best be addressed and NHS England will continue to work with the Clinical Reference Group and professional associations to explore alternative models.

#### **Recommendation 17**

**The issues that exist around clinical protocols must instead be addressed through the consistent application of clear and appropriate standards across**

**the Gender Identity Clinics. The situation described to us by Dr John Dean, Chair of the NHS National Clinical Reference Group for Gender Identity Services, whereby “there is not a standard approach or a standard training in how the guidelines are interpreted”, is clearly unacceptable and must change. (Paragraph 213)**

#### Government response

Government will act on this recommendation through work the NHS England Specialised Commissioning Team is leading to review the service specification for adult gender identity services. This will include engagement with stakeholders and the Clinical Reference Group for Gender Identity Services.

This will be a significant piece of work but there is a commitment by NHS England to deliver recommendations in 2016. Once the specification is agreed, its implementation will drive consistent application of clear and appropriate standards across all the Gender Identity Clinics. NHS England specialised commissioning teams will monitor compliance with the standards by each of the Clinics.

#### **Recommendation 18**

**Assessment prior to treatment must be undertaken in order to meet clinically necessary criteria regarding the patient’s diagnosis, ability to consent to treatment and (physical and mental) fitness for treatment. The requirement to undergo “Real-Life Experience” prior to genital (reassignment / reconstructive) surgery must not entail conforming to externally imposed and arbitrary (binary) preconceptions about gender identity and presentation. It must be clear that this requirement is not about qualifying for surgery, but rather preparing the patient to cope with the profound consequences of surgery. (Paragraph 215)**

#### Government response

NHS England will consider this as part of their ongoing work.

The Clinical Reference Group drafted an outline clinical protocol in February 2016. This draft protocol will be incorporated, where appropriate, into NHS England’s ongoing work to develop services specification for appropriate elements of the pathway for adult gender identity services and the work of the Royal Colleges will be fed into this.

#### **Recommendation 19**

**We are also concerned at the apparent lack of any concrete plans to address the lack of specialist clinicians in this field. This will be a serious obstacle to addressing the lack of capacity, which growing demand for the service is sure to exacerbate, and cannot be ignored. (Paragraph 230)**

**The Department of Health must say in its response to us how it will work with Health Education England and other stakeholders to ensure that this is addressed.**

(Paragraph 230)

#### Government response

In March 2016 the Chief Executive of Health Education England and the Chair of NHS England's Task & Finish Group for Gender Identity Services discussed the Committee's recommendations around workforce and training, and as a consequence agreed on the need for a joint and coordinated approach across the organisations. The multi-agency symposium held in March 2016 had focused on the development of a national workforce and training plan, and the various actions from that symposium are currently being developed into an action plan.

### The Tavistock Clinic (children and adolescents)

#### **Recommendation 20**

**Accordingly, we recommend that, in the current review of the service specification and protocol for the Gender Identity Development Service, consideration be given to reducing the amount of time required for the assessment that service-users must undergo before puberty-blockers and cross-sex hormones can be prescribed.**

(Paragraph 253)

#### Government response

A public consultation on the draft service specification for the children and young people's service, and a draft clinical commissioning policy for prescribing cross-sex hormones to young people, closed on 20 April 2016. This process included a stakeholder workshop in March 2016.

To address the issue of the amount of time required for assessment before puberty-blockers and cross-sex hormones can be prescribed, NHS England has sought advice from the providers of these services (Tavistock and Portman NHS Foundation Trust, and University College London Hospitals NHS Foundation Trust), the Clinical Reference Group for Paediatric Medicine and professional associations; this advice will feed into the draft service specification.

NHS England will consider the outcome of public consultation before making a final decision on the service specification and clinical commissioning policy, which is planned to be by July 2016.

### Hate crime legislation

#### **Recommendation 21**

**The Ministry of Justice must ensure that it consults fully with the trans community in developing the Government's new hate-crime action plan, so that the proposals are well-targeted and likely to be effective in increasing levels of reporting. This plan must include mandatory national transphobic hate-crime training for police officers and the promotion of third-party reporting.** (Paragraph 267)

#### **Recommendation 22**

**The Government should introduce new hate-crime legislation which extends the existing provisions on aggravated offences and stirring up hatred so that they apply to all protected characteristics, as defined for the purposes of the Equality Act 2010.**

(Paragraph 275)

## Government response

Transgender hate crime is abhorrent and will not be tolerated.

The Government is committed to maintaining a strong legislative framework to tackle hate crime. There are already tough sentencing options available to the courts - the sentence for any offence motivated by hostility towards the victim on the grounds of transgender identity is currently aggravated<sup>11</sup>. The Law Commission was asked to consider whether the hate crime offences needed to be extended including to cases involving transgender hate crime. The Government continues to carefully consider options for taking forward a review of hate crime legislation.

The Government has engaged fully with a range of organisations and individuals in the development of the Hate Crime Action Plan. This includes events specifically aimed at members of the transgender community and organisations that support that community. We actively sought views on how the Action Plan can target transphobic hate crime effectively and how it can increase levels of reporting from all victims of transphobic hate crime.

The College of Policing is currently undertaking action to improve the level of police knowledge and training around hate crime. This includes an ongoing training needs analysis which seeks to comprehensively assess the level of knowledge and experience of officers and establish new training mechanisms to ensure that they can effectively deal with hate crime for all communities, including transgender people.

Third party reporting of hate crime is already established as a vital tool in tackling the harm that hate crime can cause. It makes access to justice more attainable for all victims, and offers a safe space to find help. The best reporting centres offer a range of ways to report hate crime, and are accessible to all at any time. This Government offers support to the True Vision website, which is a hate crime reporting resource for all third party reporting centres to use. We aim to build on the progress that third party reporting centres have made to date, and will continue to work with organisations to ensure that all victims of hate crime know about, and have access to, third party reporting facilities.

## Recording names and gender identities

### **Recommendation 23**

**The Government must take the lead by ensuring public services have clear and appropriate policies regarding the recording of individuals' names and genders. The requirement for trans people to produce a doctor's letter in order to change the gender shown in their passport inappropriately**

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<sup>11</sup> Murders aggravated by hostility towards the victim on the grounds of transphobia have a minimum term of 30 years. This is in line with murders motivated by hostility on the grounds of race, disability, religion or sexual orientation.

**medicalises what should be simply an administrative matter. This requirement must be dropped. (Paragraph 297)**

#### **Recommendation 24**

**The UK must follow Australia’s lead in introducing an option to record gender as “X” on a passport. If Australia is able to implement such a policy there is no reason why the UK cannot do the same. In the longer term, consideration should be given to the removal of gender from passports. (Paragraph 298)**

#### **Recommendation 25**

**The Government should be moving towards “non-gendering” official records as a general principle and only recording gender where it is a relevant piece of information. Where information on gender is required for monitoring purposes, it should be recorded separately from individuals’ personal records and only subject to the consent of those concerned. (Paragraph 299)**

#### Government response

We understand that it can be very distressing for some transgender people when faced with putting their birth sex on a form. To tackle this, we will carry out an internal review of gender markers in official documents to find ways to reduce unnecessary demands for such markers, while ensuring necessary data is collected to tackle sex discrimination and inequality, and for identity purposes.

We recognise the importance of raising awareness in this area. In November 2015, the Government published guidance on providing services for transgender customers<sup>12</sup>, to help service providers to ensure that transgender people are welcomed, included and valued as customers, clients, users or members, and to ensure they are treated fairly and appropriately. This guidance includes advice on taking each individual’s lead on how they would like to be addressed in terms of their gender, especially as regards their name, pronoun and / or title.

We know that gender data is collected for a wide range of reasons. On civil registration records, such as birth and deaths, gender information is provided to the UK Statistics Authority and is used for the analysis of mortality and other statistics. Certificates of birth, death, civil partnership and marriage are also used for a variety of purposes across Government and society more generally. There are established mechanisms in place to ensure gender is appropriately recorded on records and updated following gender recognition. Any change of approach to the content of civil registration records would need to form part of a wider review of gender recognition law.

For foreign nationals who claim asylum in the UK there is a high probability they will not have official evidence in the same way as a UK national to be able to demonstrate their gender identity. Work is underway to establish what is reasonable to expect in such circumstances with the aim of issuing revised transgender guidance to staff.

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<sup>12</sup> <https://www.gov.uk/government/publications/providing-services-for-transgender-customers-a-guide>



The passport is a unique and important document. HM Passport Office (HMPO) is required to obtain only that information from applicants and third parties which is relevant and necessary to consider a passport application. Gender is gathered at the point of application to assist in the determination of identity. The showing of a gender marking on the passport accords with standards set by the International Civil Aviation Organisation. Gender is one of a number of identifiers that enables HMPO to be satisfied with the identity of a person before a passport is issued. It also assists border and law enforcement agencies and helps the passport holder when accessing or seeking access to services or being at the end of receiving interventions that may be gender specific.

Significant changes have been made in the technology used to identify the holder of travel documents. For example, e-travel documents use facial recognition technology and other biometric identification methods. This provides an opportunity to look beyond the biodata displayed on travel documents, including gender, to confirm an identity.

At present, a person is required to produce a doctor's letter before they can change the gender shown in their passport. As Karen Bradley indicated when appearing before the Committee, HMPO will extend the range of supporting documentation that can be used by an applicant to demonstrate use of their gender of choice in their daily life. This will mirror the approach adopted for passport applicants who wish to change their name.

The issue is not as straightforward for civil registration records which are updated on the direction of the Gender Recognition Panel. Any changes in this area would need to form part of a wider review of gender recognition law.

Currently, UK law only recognises male and female genders, and to introduce a third category denoted by an 'X' in the passport would require a change in primary legislation. Before such legislation could be introduced, we would need to consider the impact that such a change would have on the personal safety and wellbeing of the individual, as well as wider issues including public protection, and combating identity theft and fraud. We would not see the passport as being used in the UK to recognise a third gender marking in isolation from other areas of government.

The removal of any gender marking on the face of the passport is not currently an option under standards issued by the International Civil Aviation Organisation (ICAO). However, we have agreed with the ICAO Technical Advisory Group that the UK will conduct a survey with member states on gender and passport markings. The Group has agreed that the findings from the survey will formally be referred for action and next steps to one of the operational sub groups, the Implementation and Capacity Building Working Group (ICBWG). The aim is to report the findings from the survey by December 2016 to the ICBWG. We maintain the need for gender to be gathered at the point of application and included in the passport chip to assist law enforcement and border agencies.

[Prison and Probation services.](#)

## **Recommendation 26**

**The Ministry of Justice, National Offender Management Service and National**



**Probation Service must urgently clarify what the situation is pending the publication of the new Instruction. When the new Instruction is published, they must ensure that staff are trained on it and that its implementation is monitored.** (Paragraph 321)

#### Government response

A Ministry of Justice review of the care and management of transgender offenders was announced on 8 December 2015. The review concluded that treating offenders in the gender which they identify with is the most effective starting point for safety and reducing reoffending, where an assessment of all known risks can be considered alongside the offender's views.

Currently, if someone is living in an establishment different to the gender in which they identify, they will be entitled to live and present in the gender in which they identify and to be provided with the items that enable their gender expression.

The National Offender Management Service is working to make sure that a new instruction on transgender prisoners (as well as those supervised in the community or appearing in court) will follow the conclusions of the review.

To ensure that any new operational policy is fit for purpose and being correctly implemented (including training), an advisory group on transgender people in custody or subject to community supervision is proposed, initially for three years.

#### Media

#### **Recommendation 27**

**Both the Independent Press Standards Organisation and Ofcom should consider what steps they might take to encourage more trans people to come forward with complaints.** (Paragraph 334)

#### Government response

The Government is committed to a free and open press and does not interfere with what the press does and does not publish, as long as the press abides by the law.

The Independent Press Standards Organisation (IPSO) handles complaints related to its members about breaches of the Editors' Code of Practice, the self-imposed rules and standards to which its members are held to account. The latest version of the Code is available<sup>13</sup>.

On 3 December 2015, the Editor's Code of Practice was revised so that gender identity is now added to the list of categories covered by the discrimination clause, which protects individuals from prejudicial and pejorative reporting<sup>14</sup>

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<sup>13</sup> [http://www.editorscode.org.uk/the\\_code.php](http://www.editorscode.org.uk/the_code.php)

<sup>14</sup> [http://www.editorscode.org.uk/downloads/press\\_releases/Code-Review-Press-Release.pdf](http://www.editorscode.org.uk/downloads/press_releases/Code-Review-Press-Release.pdf)

Ofcom's reply to the Committee directly on the points specific to them is included in the annex to this document.

## Online services

### **Recommendation 28**

**The Government's desire to work with online service providers rather than further regulate them must not be an excuse for inaction. The Government must keep the situation under close review and work proactively with providers to ensure that they take their responsibilities seriously.** (Paragraph 342)

#### Government response

Government is committed to making the Internet a safe place for all. Government proactively works with industry, and a wide range of partners from the third sector, academia, and law enforcement at the UK Council for Child Internet Safety (UKCCIS) to help make the Internet a safer space, and will continue to engage with them to drive progress in this area.

In a wider context, the Government's Hate Crime Action Plans have recognised the importance of protecting people from targeted hostility online, whilst respecting the rights to free speech.

Online service providers play an active role in the work of the UKCCIS. For example, in December 2015, UKCCIS published a practical guide for providers of social media and interactive services. The guidance was co-ordinated by Ofcom and was informed by contributions from partners, included Twitter, Facebook, Google, Ask.FM, MindCandy and Microsoft. It contains many examples of responsible practice, and encourages providers of social media and interactive services to build safety into their products by design.

## Schools

### **Recommendation 29**

**More needs to be done to ensure that gender-variant young people and their families get sufficient support at school. Schools must understand their responsibilities under the Equality Act. They must abide by their legal responsibility to ensure that all staff receive sufficient training to ensure they are compliant across all protected characteristics, including that which relates to trans people, especially gender variant young people. In its review of initial teacher training, the Government should consider the inclusion of training on the protected characteristics.** (Paragraph 360)

#### Government response

We absolutely agree that all young people should be free to be themselves and grow up free from fear of discrimination. We also believe schools should be free to decide for themselves how best they support this, and how they meet the needs of their pupils, in an age-appropriate and sensitive way. To achieve this, we have already delivered a wide range of projects to support transgender and LGB young people to

help them reach their full potential:

- In March 2016, Government announced a further £1 million to support schools to address homophobic, bi-phobic and transphobic bullying. This builds on the previous £2m fund which was announced in October 2014 and which funded eight organisations. These projects aim to increase teachers' knowledge and confidence to deal with bullying and provide direct support to young people affected by it.
- In 2014-15, we provided £48,600 to the Albert Kennedy Trust to develop a national pilot online mentoring service. The service supported LGB&T young people who are homeless or are at risk of homelessness. It provided young people with online one-to-one support and advice at times when they are at risk. It also helped build resilience, promoted better wellbeing and provided essential life skills like writing a CV, signposting to services and benefits.
- In 2015-16 we provided £4.9m to 17 voluntary and civil society projects delivering support to children and young people with mental health issues. This included nearly £250,000 to the Metro Centre to establish a mental health service for LGB&T young people and those who work with them across London and Kent/Medway.
- We recently updated guidance<sup>15</sup> for school leaders and counsellors on how to ensure school-based counselling services achieve the best outcomes. This includes how to support the differing needs of vulnerable children, including LGB or T young people or those questioning their gender identity or sexual orientation.
- In February we also launched *Disrespect Nobody*, the second phase of the teen relationship abuse campaign, encouraging teens to rethink their views on violence, controlling behaviour and consent – including within LGB&T relationships.

We want to ensure that the time that transgender children spend in school is a happy one, and that schools allows them to be themselves and help them achieve all that they are capable of. To help them achieve this, the Government already provides guidance on how schools can comply with the Equality Act<sup>16</sup>.

The recommendation makes reference to the Government review of Initial Teacher Training (ITT). An independent review of ITT by Sir Andrew Carter reported in January 2015 and highlighted significant variations in the content of ITT courses. In response, the Government commissioned an independent panel to develop a framework of core content for ITT (chaired by Stephen Munday CBE). Ministers are

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<sup>15</sup>

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/497825/Counselling\\_in\\_schools.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/497825/Counselling_in_schools.pdf)

<sup>16</sup> <https://www.gov.uk/government/publications/equality-act-2010-advice-for-schools>

currently considering the recommendations of the panel and further detail will be published in due course.

### **Recommendation 30**

**Trans issues (and gender issues generally) should be taught as part of Personal, Social and Health Education. (Paragraph 361)**

#### Government response

We trust schools and head teachers to know how best to meet the needs of their pupils in an age-appropriate and sensitive manner, and trust them to decide what specific issues they cover in line with the needs of their pupils.

Transgender issues are included in the non-statutory Personal, Social and Health Education (PSHE) Programme of Study produced by the PSHE Association. This suggested programme of study, produced by some of the leading experts in PSHE teaching, includes teaching young people about diversity, including gender identity; to recognise and challenge stereotypes and to understand the nature and consequences of discrimination, teasing and bullying. It also teaches young people to respect equality and to be productive members of a diverse community. The Government has made it clear in the introduction to the framework to the national curriculum that all schools should teach PSHE.

#### Post school education

### **Recommendation 31**

**The levels of bullying and harassment experienced by trans students in further and higher education are unacceptable. We welcome the offer of the Minister of State for Skills to raise this with university Vice Chancellors and to discuss with them whether enough is being done when complaints are made. (Paragraph 369)**

### **Recommendation 32**

**We recommend that the Government hold similar conversations with further education providers.**

### **Recommendation 33**

**The Government should also take steps to ensure all further education and university staff receive gender identity awareness training. Further and higher education institutions should take proactive steps to promote trans equality, including having a Transgender Champions scheme for their non-trans staff. (Paragraph 369)**

#### Government response

We are clear that no student should suffer discrimination, harassment or bullying – including transgender students. We agree that further education and higher education bodies should recognise transgender equality as a growing and important matter. To highlight this, Nick Boles, Minister for Skills, who writes to all further education (FE) college governing bodies, college principals and training providers on a termly basis, will reference the importance of providers being proactive on this

issue in his next letter. For higher education, Jo Johnson, Minister for Universities and Science, will write to Universities UK, the umbrella body for universities, to highlight the need for transgender equality.

Higher Education Institutions (HEIs) take transgender issues very seriously. As autonomous bodies, independent from Government, they have responsibility through the Equality Act 2010, to ensure the wellbeing of their students. It remains a matter in the first instance for institutions to address students' complaints. In addition, students have recourse to an institution's internal complaints procedures and can request the help of the Office of the Independent Adjudicator (OIA) to explore the complaint. The OIA was set up as an alternative to the courts and is free to students.

At the request of the Government, Universities UK, whose members consist of Vice-Chancellors/Principals of UK university institutions, has established a task force to explore what more can be done to support the higher education sector to prevent and respond effectively to all forms of harassment, including those relating to transgender issues. It brings together experts from across the higher education sector with both student and university representatives. The task force will maintain a focus on developing practical recommendations, including raising awareness and sharing good practice across the higher education sector, that universities and students' unions can adapt and implement to suit their own context. The Taskforce will report its findings for the start of the 2016/17 academic year (September 2016).

The sector led Equality Challenge Unit (ECU) have produced guidance on transgender staff and students - a practical resource to help higher education institutions in their legal obligations to meet the needs of transgender people. Another initiative, the 'Gender Equality Charter', enables institutions to apply for an award recognising their commitment and progress to equality and diversity in a bid to drive forward cultural and systemic change. In May 2015 the Charter was expanded to recognise transgender staff and students, addressing gender equality more broadly.

Similar to HEIs, Further Education Colleges (FECs) are independent and autonomous bodies and are responsible for addressing any issues of discrimination at their institutions. The Skills Funding Agency (SFA) commissioned research in 2011 into sexual orientation and gender identity equality in adult learning. The findings of the research have been published<sup>17</sup>. The report made a number of recommendations aimed at further education colleges and independent training providers.

SFA have funded a range of projects to address the research findings, through the Equality and Diversity Good Practice Fund and its predecessor funds. An evaluation of the fund by the Institute for Employment Studies found that it has been particularly effective in raising the status of 'newer' protected characteristics such as gender

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17

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/288670/Sexual\\_Orientation\\_and\\_Gender\\_Identity\\_Equality\\_in\\_Adult\\_Learning- Published\\_August\\_2011.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/288670/Sexual_Orientation_and_Gender_Identity_Equality_in_Adult_Learning- Published_August_2011.pdf)

identity. The good practice and resources from each project are freely available for the whole sector to use on the Equalities Toolkit.

Additionally, the SFA worked with the Forum for Sexual Orientation and Gender Identity Equality to produce Guidance on transgender equality in post-school education<sup>18</sup>.

It also has guidance on its website on gender reassignment discrimination. It covers ways that employers can support transgender people at work and is good practice for FE providers.

### Social care for young people

**We have heard worrying evidence about some social workers' lack of knowledge on gender variance. (Paragraph 373)**

#### **Recommendation 34**

**The Government should seek to address this through formal training as a matter of urgency. (Paragraph 373)**

#### Government response

Social workers perform a vital role supporting some of society's most vulnerable young people, families and adults. We are currently carrying out significant reform of social work to raise the status and quality of this profession.

Social worker training covers legislation and policy relating to equality issues, which can include transgender equality. This equips social workers to deal with a range of issues that vulnerable children and young people may face.

In 2014 the Chief Social Worker for Children and Families published a statement of knowledge and skills for child and family social workers which sets out the paramount importance of the welfare of the child. The Government continues to support the Assessed and Supported Year of Employment (ASYE), an induction programme for new social workers. Since November 2014, employers registered with the ASYE programme have been focusing their training to the Knowledge and Skills statement.

It is important to understand whether and to what extent training, and knowledge within the profession, is preventing these approaches from driving a sufficiently strong understanding of transgender issues. Government will therefore commission a study to ascertain the adequacy and consistency of knowledge on gender variance in initial social work training and continuous professional development (CPD). It will use the findings to decide whether additional training materials should be made available.

**A key theme running through this chapter has been lack of sufficient understanding of transgender issues by professionals in the public sector, probably reflecting society's lack of knowledge - and sometimes prejudice. We**

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<sup>18</sup> [https://www.ucu.org.uk/media/5014/Trans-equality-in-post-school-education/pdf/forum\\_trans\\_guide\\_20121.pdf](https://www.ucu.org.uk/media/5014/Trans-equality-in-post-school-education/pdf/forum_trans_guide_20121.pdf)

**have already recommended that the Government bring forward a new strategy to tackle issues faced by transgender people. (Paragraph 374)**

### **Recommendation 35**

**Appropriate training of public sector professionals on gender identity issues must be a key part of this new strategy. (Paragraph 374)**

#### Government response

We agree that due to the diversity of the public sector workforce, training on transgender issues will need to be appropriate to the profession due to the difference in the level, depth and frequency of training required. Generic training will not be appropriate to meeting the needs of, for example, a mental health nurse, social worker, fireman or teacher.

We have already provided guidance to employers<sup>19</sup> and service providers<sup>20</sup> on working with transgender individuals as customers, clients, users, members, or as employees, and to ensure they are treated fairly and appropriately. This guidance aims to help service providers and employers comply with the law.

Individual professions are best placed to determine the detail of training needed. We will write to all relevant heads of profession to highlight the need for training on transgender issues for their profession, asking them to introduce training if not already available, and to monitor effectiveness of the training provided.

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<sup>19</sup> Recruiting and retaining transgender staff: a guide for employers

<https://www.gov.uk/government/publications/recruiting-and-retaining-transgender-staff-a-guide-for-employers>

<sup>20</sup> Providing services for transgender customers: a guide

<https://www.gov.uk/government/publications/providing-services-for-transgender-customers-a-guide>





## Annex

16 March 2016

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Chair  
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Niall Dickson



## Transgender Equality Report

I am writing in response to the Women and Equalities Committee's report on Transgender Equality, which raises important issues about trans people's experience of NHS services.

We welcome the Committee's report, which unfortunately tallies with some of the experiences we hear from trans individuals through our local and national engagement.

We recognise that some doctors may have little or no experience of providing care for trans patients, but it is essential that all doctors know how to access effective treatment for all their patients. Our core guidance '*Good Medical Practice*' stresses that doctors must treat all patients fairly and with respect. It makes clear that doctors must not unfairly discriminate against patients by allowing their personal views, including views about gender and gender reassignment, to affect professional relationships or the treatment they provide or arrange.

We will look carefully at how we can provide further support to doctors on this issue. We are about to publish a position statement about doctors' professional responsibilities towards trans patients, making reference to their statutory requirements under equality legislation. Alongside this we are introducing a new framework to make sure that doctors' training covers broader behaviours and skills such as communication and leadership which we believe are essential to the delivery of compassionate care.

We will continue to engage with trans individuals and representative groups.

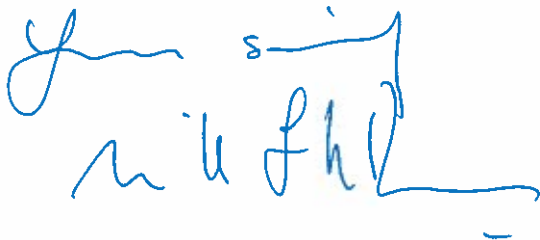
The Committee has asked us to provide assurance that we take allegations of transphobia as seriously as other forms of professional misconduct. I can assure you that we do.

We understand the Committee's concerns are partly based on the 98 cases that were referred to in our written submission. Like the Committee, we were concerned to hear about the issues that some trans individuals were experiencing. However, it is important to understand that many of these individuals were not comfortable making a complaint, sharing the doctor's details or consenting to their complaint being disclosed to the doctor.

We therefore agreed an alternative approach which allowed a large number of people to provide information to us anonymously and via a third party. We agreed to review the anonymised complaints and indicate which ones appeared to warrant further investigation, so that patients would not have to disclose their identities in cases we did not then pursue. However, we are required by law to disclose evidence and the identity of complainants to the doctors concerned. We understand why complainants may have been unwilling to follow through, but we cannot act against a doctor's practice on the basis of unattributed evidence.

I am sorry for any disappointment that this may have caused, and within the constraints of the law we will consider what more we can do to encourage transgender and other vulnerable patients to raise their concerns.

I hope this response is helpful.



Niall Dickson

5 July 2016

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Dear Maria

## **Transgender Equality**

Ofcom welcomes the publication of the Select Committee's report on transgender equality. We have taken careful note of the report and in particular of the Committee's recommendation that Ofcom should consider what steps we might take to encourage more trans people to come forward with complaints.

In response, it might be useful to set out the context of how fulfil our duty under the Communications Act 2003 to "provide adequate protection" to members of the public from harmful or offensive content in television and radio programmes. It might also be useful to explain the work we have already done to improve the confidence the trans community has in Ofcom, and what we plan to do in the future.

### Complaints Handling

Ensuring that making a complaint to Ofcom about broadcast material is as easy and straightforward as possible is vital. Complaints can be submitted to us online, by telephone, or post – and complaints can be made anonymously. We carefully assess each complaint we receive to see if it raises any issues under the Broadcasting Code ("the Code"). The Code contains all the rules which broadcasters must follow when they transmit programmes. We investigate possible breaches of those rules and take robust regulatory action, where necessary. We publish our decisions on all the complaints we have received in our Broadcast and On Demand Bulletin.

Our complaints procedures are open and transparent, and we have no evidence that they in any way discourage trans people from making complaints to us. We regularly review these procedures to ensure they are as effective as possible.

Over the last three years Ofcom has seen a small but steady increase in the number of complainants who were concerned that broadcast material involved discrimination against transgender people. In 2015, as a result of complaints, we investigated two programmes to

decide whether their treatment of transgender people breached the Code. While Ofcom was satisfied that the content did not go so far as to breach the Code in those particular cases, as a result of the complaints bringing this material to our attention, we issued formal guidance to the relevant broadcasters on both occasions, which will be held on their compliance records.

### Developing trans community confidence in Ofcom, and Ofcom's understanding of trans issues

Ofcom has also worked to build and improve relationships with the trans community, and our understanding of that community, over recent years.

In 2011, for example, Ofcom attended the launch of Trans Media Watch's Memorandum of Understanding, hosted by Channel 4. In 2012, as a result of contacts made at this event, Ofcom organised a very well attended in-house training session for Ofcom colleagues about trans issues and the media. This was run with help from Trans Media Action.

In October 2015, Ofcom attended a roundtable discussion organised by the LGBT Consortium about portrayals in the media of members of the trans community. This included representatives from a number of LGBT groups (including Trans Media Watch) as well as the Government Equality Office.

As a result of that event, we offered to organise an opportunity for representatives of Trans Media Watch to meet and discuss issues affecting the trans community with colleagues from Ofcom's Content Standards Team. We hope this meeting will take place as soon as possible in the coming months.

Also, as referenced in the Committee's Report, Ofcom is currently conducting new research into public attitudes to offensive and discriminatory language. This includes language that may be targeted at the trans community, and the research includes a specific focus group of participants from the trans community to ensure their views are represented. Ofcom expects this research to be published by summer 2016, and its conclusions will inform how we enforce our rules on offensive language and specifically in cases involving language used to describe trans people.

### Conclusion

I hope this underlines for the Committee the seriousness with which Ofcom takes its responsibilities regarding the depiction and treatment of members of the trans community on television and radio. We are committed to ensuring members of the trans community can complain to us as easily as possible, and to continuing to work to improve the community's confidence in our work and our understanding of issues transgender people face.



Tony Close





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