

Research Paper

Supporting trans employees in the workplace

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Rosa Marvell, Andrea Broughton, Evelyn Breese and Elaine Tyler

The Institute for Employment Studies (IES)

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Disclaimer

This report contains the views of the authors, employees, employers, trans organisations and other stakeholders interviewed for this research. It does not represent the views of Acas or its governing body, the Acas Council. Any errors or inaccuracies are the responsibility of the authors alone.

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1. Executive Summary

1.1 Background

The need for better inclusion of trans¹ or intersex² employees and jobseekers in the workplace has gradually become more prominent in recent years. The persistent transphobia, negative treatment and aggression which many trans or intersex individuals experience in or while searching for work is widely reported. However, there has been very little research conducted into the experiences of trans or intersex staff in the UK, the implications for the workplace and, in particular for managers and employees.

When commissioning the research on which this report is based, Acas was keen to gain insight from recent UK literature and guidance as well as hear first-hand experiences from stakeholders, trans or intersex employees and employers who are recognised as exhibiting 'good practice'. A small number of interviews and employer-level case studies were conducted to obtain this data.

This report explores how gender identity is managed in UK workplaces and how it could be improved by exploring the legislation (the Gender Recognition Act 2004 and the Equality Act 2010), most major function HR areas and other key themes that arose during the research. However, the research was unable to capture sufficient evidence on intersex labour market experiences due to a pervasive lack of awareness and some confusion in public understanding of how trans and intersex issues differ. Future research focussed here would be a welcome addition to the evidence base as intersex issues and needs can be very different to trans issues.

1.2 The UK employment landscape for trans people

The Gender Recognition Act 2004 was recognised within the literature and interviews as an important element in the legislative landscape for 'transsexual'³ employees and jobseekers, affording critical rights around privacy. However, both publications and interviewees criticised the recognition process for being bureaucratic and lengthy. The Gender Recognition Certificate (GRC - a legal document which changes someone's legal gender and provides them with a new birth certificate⁴) also caused some tension in workplaces where staff could not provide it.

Contrastingly, the Equality Act 2010 was described by employers, stakeholders and employees interviewed for this research as providing the 'bare minimum' of

¹ Throughout the report trans is used to refer to any individuals who may identify with the wider trans umbrella, including people who are non-binary or otherwise gender non-conforming and women or men with a trans past.

² Intersex is a naturally occurring variation of human development and there are a number of intersex variations. In some the appearance at birth is neither clearly male nor female.

³ In law, referring to someone who has the protected characteristic of gender reassignment.

⁴ To obtain a GRC, a large amount of evidence must be submitted (e.g. medical reports, evidence of having transitioned full-time for at least two years). Additional requirements apply to people in a marriage or civil partnership. A person does not have to obtain a GRC; some trans people cannot get one and others choose not to.

protection which excluded many trans or intersex staff. There were a number of other comments connected to the Act, including:

- Discomfort with its use of the term 'transsexual';
- Concern that the Act only protects a subgroup of trans people, which excludes intersex and non-binary people unless they transition to a (trans) man or woman, or are perceived to be going through 'gender reassignment' regardless of whether this is true. This leaves them vulnerable to negative treatment in the workplace;
- Insufficient advice or guidance for employers to help them identify what action they should take and how managers should behave;
- Insufficient incentive to fully comply with the 'gender reassignment' protected characteristic, meaning that employees who are covered are often the ones responsible for encouraging employers to embed inclusive practice; and
- Difficulties in communicating how an organisation understands and implements the Act to a disparate workforce.

Most participants interviewed for this research stated that the Act is not currently fully trans or intersex-inclusive. Good practice was thus roundly agreed to be action which goes above and beyond what is enshrined in law. Employers who participated in this study explained that they treat employees who are intersex, non-binary or otherwise gender non-conforming as if they are covered by the Act. Evidence from interviews with employers and LGBTQIA⁵ advocacy organisations suggested this is vital to ensure all employees are supported.

Disputes between trans staff and other employees tended to be handled via in-house grievance procedures and reach an informal agreement. Interviewees and published research evidence suggested that it is important to prevent situations escalating to an employment tribunal because trans staff may look for another job rather than endure the costs and emotional labour of going to tribunal or court.

1.3 Approaches of 'good practice' employers

The literature and interviewees were very clear that trans experiences are diverse and one journey is unlikely to play out in the same way as another. In addition, although there is some overlap between intersex experiences and gender identity, intersex is distinct from trans experiences. As a result, approaches to managing gender identity and intersex employees in the workplace need to be flexible and tailored⁶.

Although support must be individualised, employers, stakeholders and employees interviewed for this research emphasised the need for employment policies which

⁵ Lesbian, gay, bisexual, trans, queer/questioning, intersex and asexual

⁶ Trans and intersex should be treated as separate issues. The former relates to gender identity and the latter is a part of human development. However, intersex experiences are wide and varied and some intersex experiences are similar to trans experiences.

specifically consider the needs of trans employees. These may relate to a workplace transition or to day-to-day life at work. Policies should⁷ be fit for purpose, so drawing on the insight of trans working groups or staff, trade unions and expert third parties can be key to success. Policies should be effectively cascaded throughout an organisation to ensure that front line staff and line managers can properly apply them.

Any disclosure of trans identity or past should be controlled by the individual in question. They should decide who is told, when, what and under what circumstances. Any personal data related to previous names or personal identifiers must be comprehensively updated, including any mentions on archived records to avoid accidental but non-consensual disclosure at a later date. Only a minimum number of key people should be able to access any old records, and then only in very particular circumstances.

Participants and the literature highlighted that, where the size of an organisation's workforce allows, the positive impact of workplace champions and staff networks which represent LGBTQIA people, provided that the networks genuinely take account of 'the T' and other less recognised minorities. They can help to 'set the tone' of an organisation, advocate for better inclusion and provide confidential peer support in a safe space for any staff member with questions about gender identity.

Employees, stakeholders and some employers suggested that organisations that are less familiar should capitalise on the value of high-quality diversity and inclusion training and information from expert third parties, free online resources from trusted sources and guidance from not-for-profit organisations. This may be particularly critical for general managers and line managers who manage a trans employee, but it can also support wider cultural change amongst the workforce and reinforce an inclusive approach.

1.4 Barriers, challenges and suggestions for change

There were a number of obstacles identified which currently prevent better inclusion of trans staff in UK workplaces.

The biggest barrier identified was a lack of knowledge amongst employers, especially the experiences of non-binary or otherwise gender non-conforming people as well as intersex people. In fact, interviews conducted for this report rarely discussed intersex-specific issues or blurred trans and intersex experiences due to a lack of familiarity. A lack of understanding more generally leads to a lack of line manager confidence in dealing with issues and persistent stigma.

Transphobia and prejudice can be a daily experience in UK workplaces. This can be direct, but can also be indirect and unintentional. As a result, trans employees are often left to bear the burden of driving forward any change or process in the workplace, including adherence to the Equality Act 2010 for employees who are protected. More work is needed to fully understand the experiences of intersex people in UK workplaces, as the level and nature of any prejudice is less well-documented and understood than workplace transphobia.

⁷ Throughout this report, 'should' indicates best practice, 'must' indicates legal requirements.

Raising awareness of trans or intersex issues and educating the workforce is therefore essential to promote better inclusion. Organisational policies can help cement a firm and positive position and provide managers and staff with a framework to guide their actions and behaviours. Training for line managers and recruiters is also required so they are equipped to deal professionally, sensitively and empathically with any issues that arise. There are a range of expert third parties that can provide accurate and high-quality training and guidance, as well as free, high-quality online advice from reputable sources and not-for-profit organisations who could provide guidance.

Other barriers are more practical. These include:

- Providing individual toilet cubicles for all staff or allowing staff to use facilities that align best with their gender identity;
- Review dress codes or uniform policies at work for any potential negative implications for trans staff;
- Have clear protocols for data management to avoid any non-consensual disclosure.

1.5 Implications

The interview data and published evidence synthesised for this research provide a number of suggestions for employers looking to improve their practice:

- Individualise practice. No two gender identity journeys are the same so different people's needs will look very different.
- Informing staff about an employee's trans or intersex identity or past should only be done with that employee's full consent and managed in the way that they feel most comfortable with.
- Having policies is a good start, but these should be monitored and effectively cascaded throughout the organisation.
- Make equal opportunities clear throughout the recruitment process, with specific mention of trans and intersex issues and how they are managed.
- Ensure careful management of personal, sensitive data: Do not retain any documentation that would not be required for legal (e.g. pensions) or valid employment (e.g. references) reasons.
- Provide quality training for line managers, capitalising on lived experience where possible, and ensure they know where to go with any further questions. Encourage those who have received training to cascade it to others.
- While trans employees should not have all of the responsibility for helping their line manager or other staff to support them through their transition, and teach them all about it, every gender identity journey is likely to be different and there may need to be a degree of shared responsibility

between the trans employee and their manager when making decisions about how they would like certain things to be done.

- Signpost employees towards LGBTQIA or trans-specific employee networks, or third party dedicated support services (online or in person) alongside any generic support that is offered.
- Have strong role models and champions in the organisation but ensure that they feel comfortable having a public profile. Trans role models and vocal, active cisgender⁸ allies⁹ can both be powerful tools to support trans and intersex inclusion at work.

⁸ Cisgender refers to non-trans people i.e. those whose gender aligns with the sex they were assigned at birth. In some groups there is some controversy over the term.

⁹ An (LGBTQIA) ally is a term which can be used to describe a straight and/or cisgender person who is simply supportive of LGBTQIA people, but can also mean someone who personally and actively advocates for equal rights and fair treatment

2. Methodology

2.1 Aims and objectives

Acas is committed to promoting diversity and respect in the workplace for all employees, regardless of their personal characteristics.

The research aimed to provide greater insight into managing gender identity at work and its implications for UK workplaces. In particular, it aimed to provide relevant insights for managers and employees using primary research evidence.

2.2 Evidence review

A purposive evidence review was conducted to identify research published since 2010 (i.e. after the introduction of the Equality Act 2010) targeted at terminology, good practice and barriers to implementation. Any evidence published prior to this date – including successful employment cases which paved the way for the Act such as *A vs W. Yorks* – has therefore been excluded.

Academic publications were identified through three databases (Business Source Premier, IBSS, PsycINFO) using search strings combined with Boolean operators. To complement what is a relatively sparse body of academic research, a substantial grey literature review was conducted to identify research and guidance from UK government departments and agencies, trade unions, HR experts and equality, human or trans or intersex rights groups. Twenty publications have been reviewed and synthesised for this review.

2.3 Qualitative fieldwork

Good practice employers were selected based on:

- Membership of Inclusive Employers OR inclusion in Stonewall's Top 100 Employers¹⁰; and
- Knowledge and experience of managing trans employees.¹¹

To gain a snapshot of current 'good practice' across UK workplaces, researchers conducted:

- 10 interviews with 'good practice' employers:
 - Across a variety of public and private sectors, including finance and banking, the civil service, the armed forces, secondary and Higher

¹⁰ Please note, because of resource constraints on small and medium-sized enterprises (SMEs), they are not represented in these lists and are unlikely to have similar kite marks. This does not indicate they are not delivering good practice, but rather that it was not possible to sample them in this way for this research. One SME was recruited via snowballing due to their experience of managing trans issues in order to capture views of a smaller organisation.

¹¹ There was limited information in the public domain about good practice and intersex employment

education, housing, research and development, technology and retail;

- Interviewees were usually senior managers, either within the HR function (including specific responsibilities for equality, diversity and inclusion) or general managers who had direct experience as a trans person or of managing a trans employee, or were champions for LGBTQIA¹² inclusion.
- Only one SME was able to be included in the research due to the selection criteria, although we would have liked to capture insight from a range of SMEs if possible.
- 6 interviews with stakeholders.
 - Stakeholders represented both trans and LGBTQIA advocacy groups and organisations with expertise in equality and diversity and employment rights and working conditions;
 - 3 organisational-level case studies which involved speaking to general, HR and line managers, employees and trade union representatives, as appropriate. The case studies comprised:
 - One very large global finance and banking firm
 - One secondary school
 - One very large retail organisation

2.4 This report

The current report summarises findings from the evidence review and qualitative fieldwork.

Terminology in this area is continuously and rapidly evolving and is often misused or misunderstood. Throughout the report, the term trans is used to refer to any individuals whose gender identity may fall under the wider trans umbrella, including people who are non-binary or otherwise gender non-conforming and women or men with a trans past. In this report intersex is not included under trans because it is a part of physical human development, not a gender identity. At specific points in this report which relate to legislation, the terms 'transsexual' and 'gender reassignment' are used, although they are often not favoured by members of the trans community. They are used at specific points to mirror the language and coverage of anti-discrimination laws and to delineate between this and people under the wider trans umbrella.

Although research activity endeavoured to identify specific experiences of intersex staff, the issue has not had the same exposure and focus as trans employment experience. The interviews conducted and research reviewed for this report suggests there is some confusion and accidental conflation of the two terms. As a result, we are unable to report qualitative findings (chapters 4-6) that truly reflect

¹² Lesbian, gay, bisexual, trans, queer/questioning, intersex and asexual

the distinct issues facing intersex people in the UK labour market. As a matter of precaution, we have chosen to exclude discussion of intersex issues apart from those instances where there is some certainty that it was understood as distinct from trans issues. Further research exploring this issue in depth would be a welcome addition to the evidence base.

Quotations and experiences are attributed as follows:

- *LGBTQIA advocacy organisation* for organisations with specific focus on LGBTQIA issues
- *Stakeholder* for organisations with broader strategic insight but no specific organisational focus on LGBTQIA issues
- *Public Sector Employer, Private Sector Employer or Voluntary and Not-For Profit Sector Employer* for employer interviews
- *[Job Title], Case Study* for case study participants

Chapter 3 summarises the findings from research evidence and good practice guidance published since 2010, whilst chapters 4, 5 and 6 summarise findings from the primary research (i.e. interviews and case studies).

A typology of key terms, their definitions and common usage has been developed to aid employers, employees, reps and other staff when managing trans and intersex issues at work (see www.acas.org.uk/researchpapers). However, to aid readers of this report, a few key terms used throughout this report are:

Trans	An umbrella term to describe people whose gender is not the same as, or does not sit comfortably with, the sex they were assigned at birth. Used throughout this report because of its more inclusive scope.
Transsexual	The protected characteristic of gender reassignment under the Equality Act 2010 i.e. someone who 'proposes to undergo, is undergoing or has undergone gender reassignment'. Some consider the term old fashioned, too medical and too focused on trans people's bodies.
Transgender	Was sometimes historically used as a less controversial alternative to transsexual. Now more often used as a more inclusive umbrella term similar to trans.
Non-binary	Someone who does not identify with a binary gender. They may be neither man nor woman, both man and woman, or take another approach to gender entirely.
Cisgender	Where gender aligns to the sex a person was assigned at birth.
Intersex	A naturally occurring variation of human development. In some intersex variations, the appearance at birth is neither clearly male nor female.

3 Evidence review

This literature review includes sources published since the Equality Act 2010 came into force. There is a paucity of academic research on practical implementation of trans-inclusive policies and practices in UK workplaces published since the Equality Act came into force. As a result, much of the evidence comes from evidence-based guidance from intermediaries. However, this literature review did not use a systematic evidence review approach, and is therefore not all-encompassing. There is very little research which considers employment of intersex people, particularly the non-medical side of intersex workplace experiences.¹³

Key findings

- Robust policies are very important. They should make specific reference to trans or intersex employees and not treat gender identity as if it is the same as sexual orientation.
- Transition should be handled with the employee at the centre of the process. A plan should be drawn up but flexibility is necessary at every stage of the process, including returning to work after any time off for medical or other appointments.
- Workplace bullying is common and many trans staff can experience this on a daily basis, either in a direct, indirect or even unintentional way. Non-binary people may be particularly vulnerable to negative treatment in the workplace.
- Workplace experiences of intersex people are currently insufficiently documented and understood. Further targeted research would be helpful to establish the nature and level of any negative treatment.
- More high-quality diversity training should be provided to HR professionals to improve their understanding of supporting trans employees, as there is currently a knowledge deficit.
- Recruitment and data protection are two areas where the literature suggests large improvements should be made.
- Non-binary and intersex experiences are persistently absent from research and their lived experience is frequently obscured. As a result, awareness and understanding of the issues facing these people at and whilst looking for work is far less established.
- There are many discrepancies across the literature, including what counts as best practice for monitoring the workforce and the correct terminology to use.

¹³ For many intersex people, time taken off for surgery and aftercare occurs during childhood rather than later in life.

3.1 Legal responsibilities: The Equality Act 2010 and the Gender Recognition Act 2004

Guidance and toolkits reviewed for this study discussed the Equality Act 2010 at length, including its implications and who it covers. For example, the Government Equalities Office (2010) explained that a transition can be social and/or medical, so someone does not need to be under medical supervision to be protected; and an individual may be protected if they experienced discrimination because they were *perceived* to have the protected characteristic of gender reassignment (GEO, 2016). Other sources instead identified limitations of the Act, namely the fact that people who cross-dress and intersex or non-binary people who do not also transition are excluded (Women and Equalities Committee, 2016; a:gender, 2016). Forty-four per cent of 'trans' respondents to a Total Jobs (2016) survey were positive about the Act, although the survey did not include non-binary respondents who are not legally protected. Respondents also commented that the Act has less traction and impact in the private and third sectors where the Public Sector Equality Duty does not apply (Total Jobs, 2016).

The literature was also clear that only certain services can stipulate as an 'occupational requirement' that employees are cisgender, for example requiring employees to be cisgender women at a women's rape crisis line (Women's Resource Centre, 2011).

Publications also discussed the Gender Recognition Act 2004. There is consensus among the literature that it is not acceptable to require an employee who has undergone gender reassignment to show or prove that they have a Gender Recognition Certificate (GRC). Instead, where applicable, it is considered best practice that all trans employees should be treated as if they have the protections of a GRC even where they would not legally be able to obtain one (Government Equalities Office 2015; a:gender, 2016).

3.2 Policies and practices

3.2.1 Workplace policies

The literature suggested that workplace policies are generally a 'reactive' measure after a particular organisation finds out that they employ a trans member of staff (Rolfe and Metcalfe, 2011; Total Jobs, 2016). However, this can start a vicious cycle where employees do not come out because there is nothing concrete to suggest that the organisational culture is supportive of trans staff. Total Jobs (2016) found that most organisations' discrimination policies mention gender (63 per cent) and zero tolerance to bullying (50 per cent) but far fewer mention gender identity (23 per cent). In fact, 'trans' is often combined with sexual orientation (i.e. protection for LGBTQIA staff) with little thought as to what this actually might mean. Around one in five (21 per cent) respondents noted there was no provision for trans employees whatsoever (Total Jobs, 2016).

Rolfe and Metcalfe (2011) identified a number of motivating factors for employers looking to introduce trans policies, including commitment to equality, diversity and inclusion, legal and statutory responsibilities, employee pressure, branding and business benefits (including recognising trans people as customers and service users). However, inertia, nervousness and a belief that action was unnecessary were barriers to implementation. Only case study organisations with

a firm commitment to equality and diversity have tended to make pre-emptive rather than reactive policy actions (Rolfe and Metcalfe, 2011).

The literature emphasised that there is a persistent and pervasive lack of understanding of trans issues amongst general managers, line managers and HR professionals and the lack of research indicates a particularly large gap in intersex knowledge. They are also often unaware of what it really means to identify as trans, or what constitutes good practice (Equaliteach, 2014; a:gender, 2016; Government Equalities Office, 2015). This was consistently highlighted as one of the biggest barriers faced by the trans communities. This gap in knowledge presents pressing, tangible risks to inclusivity. For example, Equaliteach (2014) reported that 68 per cent of managers surveyed felt there was a gap between trans policies and practice. This was explained by the light-touch way in which policies are disseminated and monitored and the lack of awareness amongst cisgender colleagues. A lack of awareness of correct procedures amongst line managers can lead to negative outcomes such as non-consensual 'outing' where data is mishandled or trans employees feel so unsupported that they feel they have to leave work (a:gender, 2016; Government Equalities Office, 2015).

Union-led research argued that this is an opportunity for greater involvement of union representatives. This included reviewing new and amended policies to ensure they give trans or intersex employees 'a fair deal', campaign for better trans or intersex representation and make collective bargaining fully trans or intersex-inclusive (TUC, 2016; Unison, 2013). Some recent literature from trade unions emphasises their responsibility to challenge particular stereotypes and misconceptions about 'intersex bodies' and 'non-normative sex characteristics' (Unison, 2016).

Overall, the literature recommended that managers undertake quality training focused on gender identity and 'gender reassignment', what workplace discrimination looks like, why it is damaging and how to confront it. Managers must also be correctly trained to apply policies consistently and fairly in practice.

3.2.2 Recruitment

The literature identified recruitment as one of the most stressful employment 'flashpoints' for trans staff where the decision whether or not to come out can be fraught. Qualitative evidence suggests that trans staff with high educational attainment and extensive labour market experience have been turned down for jobs after face-to-face interviews or had offers withdrawn after disclosing their intention to transition (Ozturk and Tatli, 2016). McNeil et al (2012, cited in Hudson-Sharp and Metcalf, 2016) report that 16 per cent of trans respondents had chosen not to apply for work because they anticipated bullying and negative treatment and nine per cent provided no references because of reasons related to their gender identity.

The literature provided several suggestions to improve recruitment processes (a:gender, 2016; Government Equalities Office, 2015; Hudson-Sharp and Metcalf, 2016). These included:

- Flexibility around which titles and genders can be selected on application forms;

- Asking for previous names in a sensitive manner, treating this information as highly confidential and storing it securely;
- Reassuring candidates who do disclose any information that this will be handled sensitively and offering any further support (if required) but not focusing discussion on this point;
- Not putting any undue pressure on candidates at recruitment or later in employment to disclose whether they identify with a gender other than the one they were assigned at birth or whether they have transitioned at any point in their life; and
- If applicable, informing candidates that there is a confidential Disclosure Barring Service process specifically for trans applicants: the Sensitive Applications Process.

Several sources emphasised that attraction strategies are very important. More trans candidates look for companies with relevant policies (43 per cent) than do not (32 per cent) (Total Jobs, 2016). Websites are the public face of an organisation and should feature its best aspects to appeal to potential clients and future recruits (Beauregard et al, 2016). Where possible, and only where trans employees feel comfortable having a public presence, employee voice can be expressed on an employer's website to demonstrate commitment to these individuals (Beauregard et al, 2016; Bell et al, 2011). Visibility of staff and policies which promote inclusion can be interpreted as an indicator of the organisation's approach to trans staff and may make the difference for a potential candidate (Government Equalities Office, 2015).

The literature did not discuss the recruitment experiences of intersex staff. Further research may help elicit whether recommendation for trans job applicants would also be relevant for intersex candidates.

3.2.3 Privacy and confidentiality

Publications highlighted data privacy as critically important when managing gender identity in the workplace. This included, *inter alia*, changing records, ID cards and other identifiers, such as name badges and notifying pension providers (Government Equalities Office, 2015). Breaches of confidentiality must be treated in the same, serious manner as any disclosure of personal details, in accordance with the Data Protection Act 1998 (GIRES, 2015).

The literature reported that poor data protection training and data management is a major cause of anxiety for trans employees. Changes must be handled confidentially, information must only be accessible by a restricted number of people, in certain circumstances and kept no longer than is absolutely necessary. Changes should be made comprehensively to all systems which contain employee records:

'I have heard horror stories of an old HR system producing a report that showed a period of maternity leave eight years ago for a trans man which effectively outed him, and a trans colleague getting locked out of the IT system but the help desk could only re-set the access with the person's

previous details including their pre-transition name. No one had made all the proper system checks.'

(Government Equalities Office, 2015, p.15)

Sources generally agreed that collecting monitoring data was important, and it is good practice to know the proportion of the workforce that is trans for equal opportunities purposes. A number of sources emphasised all data collection must be done with the utmost sensitivity and attention to detail to ensure that trans people are not put in uncomfortable situations, such as non-consensual disclosure (a:gender, 2016; GIRES, 2015). The Government Equalities Office (2015) emphasised that where information is requested, gender identity should be separate from sexual orientation and employees should be able to select both a current binary or non-binary gender and a trans past, should they choose (Government Equalities Office, 2015). Intersex is not a gender identity or a sexual orientation so any data collection and analysis should be carefully structured so as not confuse the terms.

3.2.4 *Transitioning at work*

Beauregard et al (2016) suggest that remaining in the same role during transition can be a positive and stable choice for employees, although ultimately this is the individual's choice. Workplace transitions were described in the literature as potentially a highly stressful time for a trans employee.¹⁴ Some evidence suggested that whilst staff were encouraged to take time off from work '*under the cloak of supportiveness*' it was sometimes interpreted as '*a means for workplaces to remove threatening physical signs of their transition from the work environment*' (Ozturk and Tatli, 2016, p.792). Equaliteach (2014) found that the key practical problems that emerged out of poorly-managed transitions were:

- Records not being properly updated and managed;
- Use of staff photos on the website or other promotional materials without consent, if the employee does not feel comfortable with their appearance;
- Expected ways of dressing at the workplace; and
- Access to toilet facilities, (e.g. being told to use accessible toilets can make trans people feel their gender is invalidated).

The literature suggested that effective management of workplace transitions should follow a flexible plan agreed between line and/or HR managers and the employee in question. Others may be present, such as a union representative (TUC, 2016). The process should be led by the employee themselves. A plan may cover issues such as when things will change, how records and systems will be updated and what will happen to 'old' records, communication with colleagues, use of facilities, absences from work, short-term changes to working arrangements, pensions, insurance, uniform requirements, communication with

¹⁴ The journeys of trans and intersex people are not directly comparable. However, intersex people can also be trans, and some international evidence suggests that people who are intersex transition at a higher rate than people who are not intersex. In short, as intersex people can also transition, the good practice identified in this paper is relevant to some members of the intersex community but the issues should not be conflated.

customers or clients and any referrals to occupational health or third party organisations (Government Equalities Office 2015; a:gender, 2016; GIRES, 2015).

Publications suggested that informing colleagues should be a core part of any agreed plan. This should be decided on a case-by-case basis and focus on who is told, when, what and under which circumstances, in line with the wishes of the employee (GIRES, 2015; TUC, 2016; Ozturk and Tatli, 2016). Sources also highlighted the fact that employees do not generally want to change role (although some might). However, a trans employee may want a temporary change during transition, particularly in public-facing roles or roles requiring a high level of telephony (Government Equalities Office, 2015; a:gender 2016). Lastly, if applicable, trans employees should not be expected to provide extensive, intrusive information about medical interventions and absence should be treated as any other authorised absence (a:gender, 2016).

Following transition, some people may consider this part of their history closed. In such cases, they may simply describe themselves as a man, woman or of non-binary gender, as should their employer (Government Equalities Office, 2015; Beauregard et al, 2016). After transition, a trans employee may no longer want or need specific support from their manager in relation to their gender reassignment at a certain point in time (Government Equalities Office, 2015). However, one source suggested that monitoring the work environment post-transition is good practice as managers can take remedial action swiftly if problems emerge (a:gender, 2016).

3.3 Attitudes, awareness and behaviours

Sources consistently highlighted the extensive workplace transphobia, negative treatment and aggression that trans employees face in the UK, which may be higher than other rates of bullying related to, for example, sexual orientation (Hudson-Sharp and Metcalf, 2016). For example, nearly half of employees reported discrimination or harassment at work, where misgendering and outing were common experiences (HM Government, 2011; Equaliteach, 2014). The literature made few references to specific non-binary experiences, but limited evidence suggests that they are one of the least understood groups under the wider trans umbrellas and at significant risk of exclusion or negative treatment. Similarly, there is a significant evidence gap around the level and nature of intersexism in UK workplaces. Indicative evidence suggests that there may be high levels of misunderstanding of intersex within UK workplaces. Better understanding is critical, as Rolfe and Metcalfe (2011) note that trans-friendly workplaces need to have an inclusive, understanding culture which goes beyond simply having anti-discrimination and harassment policies.

Qualitative evidence suggested that it is often difficult to 'prove' that harassment has taken place and trans staff may feel this is outside of their control (Equaliteach, 2014). Many publications explained what constitutes different transphobic acts in the workplace. Acas (2015) states that:

- Direct discrimination is when a person with a protected characteristic is treated less well than a person who does not have that characteristic;

- Indirect discrimination is where a general rule (e.g. for all staff) creates a disadvantage for a person with a protected characteristic;
- Harassment is any unwanted behaviour that violates a person's dignity or creates a hostile environment; and
- Victimisation is when someone is treated badly if they have complained about discriminatory treatment under the Equality Act 2010 or if someone has complained on their behalf.

Hudson-Sharp and Metcalf (2016) reported that bullying can be conducted by peers, juniors and managers alike. However, managers may not think they have any trans employees (so thought there was no need for them to take any action) or be aware of how pernicious these actions can be. In fact, the literature argued that managers often do not think they need to tackle their practice or tacit discrimination (e.g. jokes) in the workplace (Equaliteach, 2014).

Discrimination may be exacerbated within certain occupations or industries, where overly 'macho' or 'masculine' environments – examples of accountancy, construction or estate agencies were given – were described as a lot 'further behind' (Rolfe and Metcalfe, 2011; Hall et al, 2007, cited in Ozturk and Tatli, 2016). However, content analysis of FTSE 100 firm websites by Beauregard et al (2016) found that life insurance, banking, oil and gas and media were the most likely to make a direct relevant reference to trans individuals in some form on their website.

The literature reported that trans staff can often feel excluded from the 'social fabric' of their organisation. For example, in one study whilst 14 per cent of LGB staff felt pushed out, 30 per cent of trans staff felt the same way (Valentine et al, 2009 cited in Hudson-Sharp and Metcalf, 2016). As a result, some trans people who are able to may choose to hide their identity or past, to 'disappear' into '*the larger categories of men and women rather than be identified as 'other'*' (Beauregard et al, 2016, p.10).

Evidence has suggested that public attitudes have recently begun to gradually change for the positive towards trans people, partially due to increased media focus (Total Jobs, 2016). However, increased attention may be a double-edged sword, as one study indicated that some employers distanced themselves from the issue due to negative media coverage of trans issues, particularly toilet facilities (Beauregard et al, 2016).

3.3.1 Promoting positive relations

The literature stated that organisational awareness, managerial support, better peer attitudes and organisational policies are needed to improve workplace climates for trans staff (Ozturk and Tatli, 2016). Positive and inclusive workplace relationships are needed to improve the current situation.

'Living our lives with labels attached is something with which we all have to contend. Being labelled as "Freda Bassett, Deputy Director" or "Michael Ansun, father of 2" is of no contentious consequence... However, being labelled "John Smith, transsexual" is a different issue. While transsexual people are not ashamed of their medical history and status, it is not the

first and foremost way by which most wish to be regarded... Respect for privacy and freedom from workplace gossip, including the unnecessary broadcasting of their personal circumstances, is a reasonable consideration.'

(a:gender, 2016, p.20)

Many larger employers have LGBTQIA staff networks or use trans role models and workplace champions, which can be a highly effective way to promote good relations amongst the workforce (Rolfe and Metcalfe, 2011; Government Equalities Office, 2015). However, the literature emphasised that these must be adequately equipped to support everyone under the wider umbrella not just people who are lesbian or gay (Beauregard et al, 2016).

The literature cited other formal mechanisms to amplify trans employees' voices including: grievance systems, collective bargaining, suggestion boxes, open door policies, employee participation, participative performance appraisals, social media, affinity networking and employee resource groups (Bell et al, 2011; Beauregard et al, 2016).

Rolfe and Metcalfe (2011) noted there are significant benefits to having trans-inclusive workplaces which include, *inter alia*, human resourcing, better morale and commitment, reduced stress, sickness absence and staff turnover, improvements to business, finances and services and avoidance of tribunal costs and damage to reputation.

3.4 Comments on the evidence base

There were some clear features of the evidence base which should be highlighted:

- There was a very limited pool of post-2010 high-quality UK-based research which a) reports on primary research or b) looks at management of gender identity and intersex people in the workplace in practical terms;
- Most of the evidence comes from intermediaries (i.e. employers, trans stakeholders). Primary research with trans or intersex employees and their direct managers was less prevalent;
- The terminology used was inconsistent, with some using 'transgender' and others using 'transsexual' when discussing the same point;
- Trans or intersex identities other than those covered by the 'gender reassignment' clause of the Equality Act 2010 (e.g. intersex and non-binary) are significantly under-researched; and
- Research on intersex people is overly focused on medical explanations rather than lived experience.

4 The employment landscape for trans workers in the UK

This section reviews the perceived implications of The Equality Act 2010 for organisations when recruiting and employing individuals who are trans. It explores how policies are developed to align with the law and discusses the nature of, and preferred approach to, resolving workplace disputes.

Please note that the content of Chapters 4 to 6 is entirely based on interview and case study data from primary research conducted for this project.¹⁵ In addition, interview data often highlighted a conflation of trans and intersex issues, or a lack of awareness of intersex issues. As a matter of precaution, we have chosen to exclude discussion of intersex issues apart from those instances where there is some certainty that it was understood as distinct from trans issues.

Key Findings

- The Gender Recognition Act 2004 is seen to be an important piece of legislation which lays the groundwork for the inclusion of gender reassignment in The Equality Act 2010. However, stakeholders and employees said that amendments could be made to improve the gender recognition process and current legislation for trans individuals.
- Challenges related to The Equality Act 2010 for policy makers, employers and trans or intersex employees included:
 - That the term 'transsexual' protects an exclusive group which does not include intersex people or those under the wider trans umbrella unless they also transition to a (binary) gender (or are perceived to have done/be doing so);
 - A lack of employer awareness about where and how to find advice and guidance on policy development to protect trans employees from negative treatment and equip managers with the necessary skills to champion trans inclusion;
 - The fact that trans employees often bear the burden of driving employers to embed inclusive practice;
 - Communicating the interpretation of the Act to a disparate workforce.
- Going above and beyond what is required by legislation is key to improving the experiences of trans employees.
- Some of the employers interviewed for this research said that they felt current legislation is inadequate as not all members of the trans community are covered due to the use of the term 'gender reassignment'.

¹⁵ N.B Employee interviewees were all trans; employer interviewees were more likely to have experience of managing trans staff rather than intersex staff.

- Working with external agencies that offer specialised support on trans issues and trade unions, as well as seeking input from trans employees, is key to successful policy development.
- It is advisable and should be best practice for an employer's policies to cover individuals who are intersex, non-gender and non-binary rather than only 'transsexual' people protected by the Equality Act 2010 so that they feel included and can be supported.
- Preventing situations from escalating to an employment tribunal is important; disputes are often handled in-house and there is a tendency to reach an agreement informally. There were many barriers preventing trans employees taking a case to tribunal, including cost and the emotional impact.

4.1 Legislation

Legal protections for 'transsexual' employees include the Gender Recognition Act 2004 and The Equality Act 2010.

4.1.1 Gender Recognition Act 2004

Although 'gender reassignment' was covered in the 1999 amendment to the Sex Discrimination Act, some stakeholder interviewees instead saw the Gender Recognition Act as the piece of legislation which laid the groundwork for the inclusion of gender reassignment in The Equality Act 2010. One stakeholder noted that the inclusion of gender reassignment is an acknowledgment that individuals who are afforded the right to change their legal gender in order to reflect their affirmed gender, should be protected by law.

Linked to this, some interviewees felt that there are a number of issues associated with obtaining a Gender Recognition Certificate (GRC - a legal document which changes someone's legal gender and provides them with a new birth certificate¹⁶). These include how useful people who have one feel it has actually been, the emotional impact on individuals who are refused, and no allowance for people who do not fit under male or female.

'Not every binary trans person wants to have a Gender Recognition Certificate... sometimes whether or not you have this bit of paper has become a little bit of an issue but we try to work around that.'

Public sector employer #2

'After two years of living in your chosen identity you can apply for a Gender Recognition Certificate... you pay a cheque which isn't an insignificant amount of money to a board of 'invisible people' and they decide if you're trans enough. I tell people to wait as long as possible

¹⁶ To obtain a GRC, several pieces of evidence must be submitted such as medical reports and evidence of having transitioned full-time for at least two years. Additional requirements apply to people in a marriage or civil partnership. It is not a requirement to obtain a GRC; some trans people cannot get one and others choose not to.

before they apply – “you’re not trans enough” – it’s a waste of money and traumatising for individuals who are refused.’

(Employee, Case Study)

One stakeholder explained that trans individuals can be deterred from applying for roles because of issues around documentation. Some may not be able or willing to obtain a GRC which may pose issues with some employers. Others may not have updated identity documents (e.g. passport) and so can be concerned about ‘outing’ themselves. It is therefore important to approach requests for documentation sensitively and be understanding where they may not be available or may be inconsistent. Stakeholders suggested that improvements need to be made such as having more flexible approaches around documentation.

‘Good practice is when an organisation can demonstrate that it is approaching the trans community and trans individuals in an inclusive way. So it’s not a recruitment process that’s specifically for trans or intersex people, but a process that advertises itself as being inclusive. So it says “we are happy to receive applications from people who are trans, we don’t discriminate¹⁷ on the basis of gender identity” and it also states quite clearly that it will not be seeking any intrusive information. That also applies to the application form which should include non-binary titles. There’s generally no need to include any titles on an application form... Best practice is when an organisation gets rid of things that prevent inclusivity in practice.’

LGBTQIA advocacy group #4

4.1.2 The Equality Act 2010

A number of challenges related to The Equality Act 2010 for trans employees and policy makers were identified. Many interviewees felt that using the terminology ‘transsexual’ is no longer acceptable. They also reported they were concerned because it only protects an exclusive group under the wider trans umbrella and it does not include people who are intersex. Some employers considered it best practice to treat all trans and otherwise gender nonconforming employees as if they were covered by the Act.

‘When the Equality Act says gender reassignment or transsexual, [our organisation] means people who are intersex, non-binary, gender fluid; it covers everybody for us. I know it’s something that the Women and Equalities Committee have raised, they recommended that the terms are changed in the Equality Act and I agree with that. I’ve made it clear that we mean non-binary and intersex not just people who are transitioning, and not just medical transition. Whatever transitioning means to that person, they will be included in the protected characteristic – gender reassignment.’

Voluntary and not-for-profit sector employer #1

¹⁷ Please note that under the Equality Act ‘discrimination’ specifically relates to ‘gender reassignment’ and not the broader term of gender identity.

Some employers stated that the Act does not help them to develop policies and equip managers with the necessary skills to champion trans inclusion. They felt that the Equality Act specifies that employers must protect workers from being discriminated against, but it does not provide advice and guidance on how to do so. There did appear to be some confusion amongst interviewees about the purpose of the Act, guidance about how to apply the Act and where to find this guidance.

Employers felt that the Equality Act alone does not sufficiently support employers to protect trans colleagues. One employer suggested that it is the supplementary work that an organisation undertakes that gives it the level of knowledge required to manage gender identity well in the workplace.

'It's hard to write a policy because it's so contextual, how do you give scenarios and examples within that? It's been quite tricky to interpret, because what's reasonable?'

(Manager, Case Study)

Linked to this, a number of stakeholders felt that employers were not as proactive about, or as responsive to, the addition of gender reassignment as they should have been. One stakeholder commented that employees who are covered by the Act have to use the legislation to *'force companies to put in place inclusive practices'*. There is also evidence to suggest that irrespective of the legislation, trans employees still experience high levels of negative treatment in the workplace.¹⁸

'Although the legislation is in place we know that the experience of trans workers on the ground is still very problematic and very difficult.'

Stakeholder #1

Underpinning all of the above is the challenge of communicating the interpretation of the Equality Act 2010 to a disparate workforce (therefore ensuring it is correctly cascaded to all line managers and that all employees will receive the same treatment). One employer commented that while the central policy team understand the Act and the interpretation of it, the lived experience does not always match up with what the policy sets out to do.

'There's a disparate workforce and the communication and messages that the centre has to deliver are vital because things can get lost. Everyone on [HR] gets it but they don't have the same pressures – time wise and resource wise – [HR] need to be mindful of that when delivering those messages.'

(Manager, Case Study)

Nevertheless, many interviewees highlighted that The Equality Act 2010 has increased employers' awareness of gender identity issues, and that *'in the Act's*

¹⁸ It proved hard to elicit clear primary evidence on the level and nature of intersexism or negative treatment of intersex people in UK workplaces.

broadest sense, the fact that there is a level of equity in terms of protection is in itself a positive'.

'Big companies [have to] take the protection of their [trans] and LGBT colleagues more seriously because they can have legal action taken against them.'

(Employee, Case Study)

However, many employer interviewees – particularly those in the private sector where the Public Sector Equality Duty does not apply – felt that The Equality Act 2010 sets out the basic framework for the minimum standard required by law, and that employers should go above and beyond what is necessary according to legislation to improve the experience of their trans workers.

'The Equality Act is the bare bones of what we legally have to do, but as a business we want to do more to support our colleagues in the right way.'

Private sector employer #4

'We look at the Equality Act just as a measure of compliance... rather than anything innovative or that drives our agenda.'

Private sector employer #1

4.1.3 *The 'gender reassignment' clause of The Equality Act 2010*

It is important to note that a number of employer interviewees were unsure of the precise content and implications of Section 7 (gender reassignment) of the Equality Act 2010 and the obligations of their organisation under equality law. This highlights that there is a pervasive lack of knowledge of the law in some organisations (despite the fact that employers selected for this research are publically recognised for their inclusive practice).

'I couldn't tell you the Act or the policy verbatim.'

(Manager, Case Study)

One key practical challenge related to the 'gender reassignment' clause of the Equality Act identified in this research is that in law gender is binary. Employer interviewees felt that they were unable to represent all of their non-binary and otherwise gender non-conforming colleagues for this reason. For example, during HMRC reporting, employees who identify as gender fluid or non-binary must select a binary option to account for government regulations. Organisations are therefore unable to be fully trans-inclusive and support the gender identity of their employees. Stakeholders reported how they have moved to discussing gender identity rather than reassignment in their own practice to ensure they are more inclusive.

4.2 Policy development

Developing trans-inclusive policies can be a real challenge for UK employers (see Section 6.1.4), but those interviewed for this research saw them as a highly useful mechanism to improve equality.

A number of interviewees explained that they developed trans-specific policies and resources in response to a request from an employee who wanted to transition at work, or data which indicated that there were a significant number of employees who identify as trans within the organisation. Others had specific provision included in wider equality and diversity policies.

Working with external agencies early in the policy development process to ensure adequate access to timely information, advice and training, and input from trans employees was perceived as key to successful policy development.

'Our trans employees are the face and the heart of [our organisation's] inclusion work, and [they] have been the driving force behind policy updates. It's always been driven by them.'

(Manager, Case Study)

Trade union involvement was also highlighted as an important aspect of policy development, to ensure that organisations are fully informed of their legal duties, and trade unions have the opportunity to consider any implications of workplace policies.

'The law says ignorance is no excuse and an organisation can still be culpable in terms of failing to meet its legal duty. The onus is on [the organisation] to go out and seek advice and information... there's no excuse not to seek information.'

Stakeholder #1

Employers have a responsibility to ensure that their policies align with the Equality Act 2010 and that individual members of staff complete equality and diversity training which covers the protected characteristics. Many interviewees commented that they follow the law but also draw on good practice. However, many were unable to articulate how their policies had been designed and developed to specifically adhere to the law, particularly when considering the recruitment and management of trans employees.

Some felt that former policies had adhered too strictly to the definitions of gender reassignment and 'transsexual' in the legislation. There was an awareness among interviewees that amendments to their policy, for example, using the term trans rather than 'transsexual', have broadened the scope of eligibility criteria so that all experiences under the wider trans umbrella are included. Interviewed organisations wanted to be as inclusive as possible.

'It's what we must do for the law and what we should do from a moral perspective and how far we should take that.'

Public sector employer #3

Linked to this, treating individuals who are non-gender, and non-binary as if they are covered by the Equality Act was identified as best practice when supporting all trans employees.

'It is important not just to look at whether you are compliant with the law but to actively challenge prejudice, to get rid of and do away with transphobia whether that's individual or institutional... improving and bolstering awareness of trans issues and intersex issues, providing that confidentiality and mutually supportive environment.'

LGBTQIA advocacy group #3

Ultimately, it is key that the policies that have been developed are understood and effectively communicated across the workforce to ensure that good practice and trans-inclusive behaviour is consistent across the organisation.

'It's important to raise awareness of [the policy] across the workplace so you don't have pockets of local good practice that are not adopted across the [whole] organisation. A lot of good practice can only happen if there is good awareness-raising across the organisation.'

Stakeholder #1

'Trans policies need to be incorporated into everyday practice, and colleagues need to be effectively briefed to raise their awareness and understanding.'

(Employee, Case Study)

4.3 Workplace disputes

Workplace disputes tended to be most prevalent in organisations that have been reactive to an employee's request to transition. Policies may have been developed at the last minute, and a lack of knowledge and confusion on the part of the employer may impact negatively on the transition experience of the trans colleague.

Most large organisations had disciplinary processes in place to handle workplace disputes. One stakeholder commented that it might be acceptable for disputes with trans employees to be covered in the organisation's general bullying and harassment policy. Further, they suggested that it is best practice to include examples of behaviours that are, and that are not, acceptable within the policy. However, it is important to recognise that small organisations may not have disciplinary processes in place, and that they may not have come into contact with a trans employee, service user, or customer.

The majority of interviewees were unaware of any examples of a gender reassignment case being brought to an employment tribunal. They noted that disputes are often handled in-house, and that there is a tendency to reach an agreement informally. For example, this might be where trans employees discuss persistent misgendering with a line manager who then follows it up and challenges that behaviour or, where it applies, reminding an employer of the Equality Act 2010 to prevent disputes going further. Alternatively, some trans

employees may feel that working alongside someone who they have had problems with is a strategy to challenge any prejudice.

'I realised actually although [the bullying] needed to be dealt with, logging a grievance probably wasn't the best way to deal with it because she would have potentially been fired and still had her eyes closed, whereas I had a game plan in... opening her eyes to transgender issues... over that time I became a bit closer to [my manager] and talked to her about my life and in doing so I felt like she had a greater respect for transgender experiences and became a better manager, a more diverse manager'

(Employee, Case Study)

The importance of preventing situations from escalating to an employment tribunal was emphasised because *'people often don't have the finances, the headspace or the strength to take [it] further'*, (Stakeholder #2). Trans staff may want to avoid the risk and strain of media attention, and they are sceptical that the legislation will have any impact.

'There [isn't] a huge amount of confidence in legislation. [Employees are] sceptical that [anti-discrimination laws] have any impact... [they're] barely used in the UK.'

Stakeholder #2

A number of trans employees also felt that action should only be taken *'when there is no policy or procedure [in place] to protect a trans person'*.

'It would feel unethical to take a company to tribunal if they had policies in place because they're trying their best. If your manager isn't following those policies then that manager needs to be held accountable... it should be the individual who is held accountable for adhering to the policies.'

(Employee, Case Study)

4.3.1 *The role of trade unions*

Some interviewees felt that while trade unions can make a huge difference, local representatives might not be sufficiently educated about trans issues.

'I couldn't have learnt anything from the union at that time, if anything; it was the other way round.'

(Employee, Case Study)

Nevertheless, interviewees noted that trade unions can provide additional expertise, inform the development of inclusive and appropriate policies, help the organisation to learn from and develop good practice, and use their collective bargaining arrangements to benefit not just one, but all employees.

'I think the union [can be] helpful because it gives a key perspective from outside and possibly expertise about what's happening in other organisations.'

(Trade Union Rep, Case Study)

5 What do 'good practice' employers do?

This section explores which policies and practices stakeholders, 'good practice' employers, and trans employees¹⁹ think help to make workplaces more inclusive. It discusses most major functional HR areas as well as other key themes that arose during interviews.

The clearest finding was that workplaces should be responsive to the needs of trans employees. Interviewees emphasised that approaches must be individualised, flexible and tailored because there is no such thing as 'the trans experience'. Different employees will have their own preferences about the support they would like, delivered at different times, in a different order and from different sources. Their perspective should be prioritised over a generic description of what a trans journey might look like.

'There are multiple identities that people can subscribe to, and on top of that, that might change from person to person and over time, so it's really important to understand that fluidity.'

Private sector employer #1

'The most important point... individualistic experience... there is no universal experience of being trans, and everyone is different... we need people to understand there has to be flexible interpretation.'

LGBTQIA advocacy group #3

'What you learn about trans people is that everybody's journey is completely unique.'

(Employee, Case Study)

Key findings

- No two transitions or trans experiences look the same, so support must be individual and tailored;
- Many 'good practice' employers have trans-specific or trans-inclusive policies, but far fewer discussed specific provision for intersex employees.
- It is critical that policies are put into practice effectively throughout all branches and levels of the organisation. They must also be monitored on an on-going basis;
- Any disclosure of a trans identity must be led by that individual and each individual should only be informed about an employee's trans identity or past based on the explicit and informed consent of that employee;

¹⁹ Although case studies sought the reviews of any employee who would come under the wider trans umbrella and intersex employees, the employees who participated were not intersex and had all transitioned from one binary gender to another. The findings are therefore presented with the caveat that intersex voices are not presented and the report relies on proxy views.

- If any personal data is updated, this must be done comprehensively (including on any archives and back-ups) and any mention of previous details should be accessible by the minimum number of key people and only in certain circumstances;
- Workplace champions (trans-specific, or LGBTQIA) and staff networks can significantly improve the inclusion of trans employees;
- Employers should make best use of good quality diversity and inclusion training and information from expert third party organisations and free resources from reputable sources to improve the practice of general and line managers, as well as the behaviour of their wider workforce.

5.1 Written policies and their implementation

Most employers interviewed for this research had workplace policies which made specific reference to trans employees in some way, although the shape they took was quite different in different organisations. Specific mention of intersex employees was much less prevalent although some employed reported that intersex employees were included in their trans-specific policies. There were a few exceptions, who used an overarching equal opportunities policy to cover everyone under the wider trans umbrella, an approach that may be more suitable for smaller organisations.

However, having policies does not appear to be the norm for UK employers more generally. One employer was shocked to discover that only 20 per cent of Stonewall's Top 100 employers have trans-specific HR policies and processes, as they felt this was a very small proportion of the supposedly most inclusive employers. Even amongst the employers interviewed for this research, written trans policies were relatively new. Most had been introduced since the introduction of the Equality Act 2010 and some in the past few years. Other drivers for introducing policies were employees who undergo a transition whilst at work or an inclusion-focused HR Department.

Employers interviewed for this research explained that policies initially focused (in both wording and coverage) on 'transsexual' staff members. However, almost all had either been or were being redrafted to cover all trans employees. One stakeholder explained that intersex and non-binary employees should be explicitly mentioned in policies to make sure that they are treated fairly at work.

'Fully trans-inclusive, that's the mantra that we're using... making sure the nuance is accounted for.'

LGBTQIA advocacy group #3

Written policies generally focussed on either or both of two areas: 1) 'Gender reassignment' (as defined under the Equality Act 2010) - this was the most common; and 2) specific mention of trans identities within other policy areas.²⁰ Recruitment or training and development policies which took into consideration the needs of trans staff were notably less prevalent.

²⁰ For example, diversity and inclusion, bullying, harassment or victimisation, maternity/paternity leave or adoption and special leave.

Employers reported that their 'gender reassignment' policies (i.e. how to support a colleague who wants to change their gender presentation in the workplace) comprised many elements. These include, *inter alia*, an explanation of the Equality Act 2010, key terminology, the procedure for changing records whether electronic or paper, support offers, how people disclose, the procedure for informing colleagues, absence management, maintaining performance over periods of absence, returning to work post absence, uniform, medical and social elements which can be part of a transition and finally which responsibilities or stages are allocated to line managers, HR or trans employees.

All stakeholders and advocacy organisations confirmed that good practice policies should reflect this extensive coverage. Policies related to transition should give line managers enough guidance whilst not being prescriptive. All interviewees emphasised that policies should be applied flexibly and each stage is collectively agreed with the trans employee in question, so that the transition is the one that is right for them.

'Individual conversations are the most important thing. You can't use a framework or a policy effectively if it's rigid... A policy is guidance to having a great conversation. I think that's the most important message.'

Private sector employer #4

Employers also embedded specific references to trans staff within other policies. Stakeholders with wider labour market expertise explained that this helps employees to be very clear about what language and behaviour is expected in the workplace. They emphasised that whilst trans employees' rights can be enshrined in general policies, they must be specifically mentioned.

'The more you have policies and processes, the more comfortable people will be to be themselves in the workplace.'

Private sector employer #2

Employers often devised policies with guidance from expert third parties such as GIRES, Inclusive Employers, the Scottish Trans Alliance or Stonewall. However, none discussed having consulted organisations which had a specific focus on intersex people. Others consulted working groups of trans employees to ensure policies were appropriately termed.

'[We said] you tell us, we're not necessarily going to be the policy makers for this, you are.'

(Manager, Case Study)

Many interviewees stressed that written policies are only worthwhile if they are understood and a normal part of day-to-day practice throughout an organisation. Employers therefore had a number of internal and (to a lesser degree) external strategies to publicise policies. This included integrating policies in the induction process, putting them on the staff intranet, promotion via internal networks or working groups and releasing bulletins.

'Induction would be a good catch-all [to promote inclusive behaviours] because you're setting the tone for the organisation. My experience is that's always far more easily handled at induction rather than trying to turn the ship once it's left port.'

LGBTQIA advocacy group #3

Interviewees also explained that monitoring how policies are implemented is an essential element to good practice. Organisations used a combination of external expert third parties, LGBTQIA staff networks, trade union representatives and internal trans working groups to carry out reviews.

'We often start at the top of the organisation [with] managers, seeing how it trickles down the hierarchy... to people that are on the front line of the organisation, and seeing whether they are tick-box policies, just to keep people happy, or actually whether they're live and being implemented.'

Stakeholder #2

The absence of intersex voices in the policy development process could be explored in future to ascertain whether this has had any adverse effect.

Some employers also reported that policies should go hand in hand with clear and embedded organisational values if they are going to be followed effectively. Interviewees were looking to create workplace environments that are welcoming, open and free from sexism, intersexism and transphobia.

'In isolation a transgender policy won't work, you have to have strong cultural ways of working, it has to be "the way things are done around here". The culture has to be tolerant.'

(Manager, Case Study)

5.2 Recruitment

Some employers had introduced specific approaches to recruitment aimed at making it more trans-inclusive.

A number of approaches focused on presenting job vacancies in more inclusive ways. This might include inclusivity statements, links to policies or promoting a kite-mark to signal their support.

'We make it clear that we're a member of Stonewall, that we have various organisations that can support people under a trans umbrella more broadly – we do use that as a way of thinking about who we want to appeal to.'

Public sector employer #2

'[Good practice] is not a recruitment process that's specifically for trans or intersex people, but a process that advertises itself as being inclusive. So it says "we are happy to receive applications from people who are trans, we don't discriminate on the basis of gender identity" ... that also applies to

the application form that should include non-binary titles, there's generally no need to include any titles on an application form.'

LGBTQIA advocacy group #4

Other organisations chose to have more active attraction strategies. This generally involved identifying recruitment activity specifically targeted at the LGBTQIA community such as Pride, graduate job fairs and charity events. One employer discussed how they had signed up for a sector-based charter which had targets to improve the representation of both women and trans people, which was a particular incentive to improve their attractiveness.

'We want the brightest and best people working for us and in order for us to achieve this we need to access the entire talent pool.'

Private sector employer #3

5.3 Coming out

Trans people may choose to keep their gender identity or trans past confidential at work. However, others will choose to come out either during the recruitment process or once employed.

5.3.1 During recruitment

All stakeholders (both those with LGBTQIA-specific insight and those with broader insight) consistently highlighted that ideally, to emulate good practice application forms should be anonymous, including removing all names, pronouns, titles and other identifiers.²¹ This ensures that trans candidates do not feel forced to discuss their gender identity against their wishes; having to declare certain things in an application process may put applicants off. Where data is requested, employers and stakeholders discussed how these questions must be sensitively worded. Furthermore, there must be a clear, explicit explanation of why that data is being collected and how it will be handled. For example, all equality and diversity monitoring information must be separated from personal identifiers, and disclosure of a trans identity or past must be treated confidentially. As mentioned elsewhere in this report, any diversity monitoring should ensure that sexual orientation and gender identity are not treated as synonymous terms.

Employers suggested that if a candidate 'comes out', they should be asked if they would like any additional support so they are not disadvantaged. In addition, employers noted that candidates may not always have the 'correct' legal paperwork and this must be dealt with sympathetically. For example, if a candidate is using a new name but has not formally changed it, a confidential discussion between them and the recruitment team would be appropriate.

Only one trans employee interviewed for this research had come out during the recruitment process (the others had done so after joining their current employer).

²¹ For example, Civil Service application processes are now fully name-blind: all the candidate's name and other personal information, such as their nationality or the university they attended are removed from applications before selection.

She explained that the process had mirrored the structure outlined above, and as a result it had felt open, fair, clear and gave her no concerns.

5.3.2 *In employment*

For existing employees, all interviewees discussed how coming out must be entirely individually-led, with trans staff having control over the whole process. Initially, trans staff should have the option to talk to whoever they feel most comfortable with. This may be one of a variety of staff members including their line manager, a trusted colleague (for example a union representative), someone who openly identifies as an ally²² in the workplace (examples given were via a rainbow lanyard or name badge), a member of HR or someone in a staff LGBTQIA network. This underscores the importance of having several potential forums in which trans staff can discuss their gender or intersex identity, so they can choose the space that feels most safe and comfortable.

Once a member of staff tells their employer that they are planning to transition or change their gender expression, they should be provided with individual guidance and support. Employers said they would typically arrange a meeting or telekit with the employee, a member of HR and line manager, as well as other people or organisations as required. This meeting would be a forum to agree a formal plan: who needs to know, when and how they should be informed and under what circumstances, if any leave is required, what the timeline might be for time off, how they would like to be addressed at which time, how (if at all) the employee would like to respond to any questions and when records should be changed. This means that the process is individualised according to the preferences of each employee. For example, some may want to be a part of discussions, whilst others may prefer their team to be told whilst they are away from work or have a letter distributed.

'We got a good number of positive responses of support... This was support for the letter and how we had handled it, and for the community and for [our trans colleague] personally... we just explained that this is what would happen, and there would still be the same high level [of performance].'

(Manager, Case Study)

Furthermore, employees going through transition may themselves be line managers of others. Employers interviewed for this research suggested that disclosure should be dealt with in the way they are most happy with. For example, they may choose to inform their team themselves by person or in writing, or they may prefer a designated colleague to do this for them. They may also look for support from third party advocacy organisations to guide the journey.

Generally this process had worked well for the trans employees interviewed, who felt they had the right level of autonomy. However, while stakeholders and employees emphasised that it is really important that trans staff have agency, they should not be solely responsible for guiding their line manager and

²² An (LGBTQIA) ally is a term which can be used to describe a straight and/or cisgender person who is simply supportive of LGBTQIA people, but can also mean someone who personally and actively advocates for equal rights and fair treatment

organisation through the transition process. Unions can therefore play a key part in this process, but must take steps to ensure that representatives are fully trained and are prepared to champion trans inclusive policies.

'If I'm honest, transitioning is hard enough without having to tell your boss how to look after you.'

(Employee, Case Study)

A few employers also discussed how, after a formal change of gender expression in the workplace, they would continue to meet up with that employee to see how things are going and whether any further support could be offered.

5.4 Occupational safety and health

The following section discusses several areas related to occupational health which primarily link to the period of time around transition²³ and/or changing workplace gender expression. These comprise absence, temporary working arrangements, health and wellbeing, and the physical work environment.

5.4.1 Absence management

As a general rule, employers interviewed for this research mirrored the absence management good practice identified by stakeholders with LGBTQIA-specific insight. This meant a high level of discretion and flexible, generous absence for health or other appointments or recuperation concerning transition. Trans employees should not be expected to use annual leave for healthcare or other appointments related to their gender identity or condition, or be required to arrange them outside of working hours. Absence should be treated as any other authorised, paid absence would be such as for health appointments.²⁴

'nobody's going to go through [transition] unless they have to... so we decided to say you take the time off you need to take off.'

Public sector employer #2

Some employers mentioned that staff must not be treated less favourably due to absence concerning transition.²⁵ In one case this included supporting employees with specific performance management meetings to avoid any negative impact on career progression or development. The return to work must be effectively managed more widely in a way that emphasises the organisation's support for that individual.

'One welcoming letter to staff makes all the difference: [Laura] who is on holiday at the moment, will be returning to work as [Michael]. We are very pleased that [Michael] has been able to resolve something that has been a

²³ Please see footnote 14.

²⁴ N.B. One employer emphasised they did not refer time off it as sickness absence to ensure that time of was not seen as something associated with illness.

²⁵ Section 16 of the Equality Act 2010 affords specific protection to ensure that absence of 'transsexual' employees should not be treated and less favourably than absence for sickness or injury.

problem for him for [many] years. [Michael] has always been one of our best partners, best sales people, and best team members, and we are absolutely delighted to welcome [Michael] back in.'

LGBTQIA advocacy group #1

5.4.2 Temporary working adjustments

A number of employers with high proportions of customer-facing employees noted front line staff should be able to access temporary working arrangements if they do not feel comfortable in front of the public. Options included working from home, working in a back office role or changing shift patterns with the employee's agreement. This could be on a short-term basis (e.g. for a day or so after hair removal) or for a more extended period of several weeks.

'We looked at different ways to manage this effectively, whether they could be put into jobs in the back office, whether there were options for working from home, those kinds of things – we worked with [the employee and] line managers to find solutions.'

Public sector employer #2

5.4.3 Health and wellbeing

Employers' approaches to health and wellbeing support were generally two-pronged: generic versus specialised support tailored to the needs of trans staff. Although there can be significant associated physical and mental health impacts (e.g. anxiety, depression) associated with gender dysphoria, a few interviewees wanted to emphasise that this is not the case for all.²⁶

All interviewees stated that because staff experiencing gender dysphoria can sometimes have related health and wellbeing needs it is important that the right support is on-hand. The most common support was Employee Assistance Programmes (EAPs) and wider occupational health services, in-house and outsourced. Others had specific mental health support such as Big White Wall, an anonymous online community. A number of trans employees and trans and intersex-specific stakeholders were less positive about generic support, as they felt it could not be of enough practical use for a trans individual. More valuable was support which came from third party organisations with trans expertise, whether they were signposted to or came into places of work to provide training.

Lastly, a few interviewees discussed private health insurance. Just one employer included surgery as part of their package but a few more offered private counselling. A number of others wanted to be able to cover surgery but were struggling to find insurance companies that would include gender dysphoria. One employee reflected on how positive this would be:

'What would be outstanding of a company is to be able to support somebody from transition right the way through to gender reassignment'

²⁶ Gender dysphoria is a condition where a person experiences discomfort or distress because there is a mismatch between their biological sex and gender identity. Gender dysphoria is not a mental health condition.

with things like counselling, hormone advice... The most frustrating thing, and the thing that affects mental health the most, is having to wait for everything.'

(Employee, Case Study)

5.4.4 *The physical work environment*

One of the most prominent areas of wider public discussion about trans-inclusivity is the *'age-old question of toilet facilities'*. The most appropriate solutions were identified by stakeholders and employer interviewees as:

- Installing individual (walled) cubicles so everyone can use them regardless of gender identity or expression; and
- Having clear guidance that states employees can use the toilet that they feel best suits their gender identity.

Although many employers interviewed for this research had taken one of these approaches, there are still barriers to implementation (see Section 6.1.4). In particular, costly renovations may be seen as a low priority for companies weighing up other financial decisions.

Directing trans employees to use accessible facilities was seen as an unsatisfactory solution which should only be used as an interim measure, if at all (although employees should have the choice to do so).

Organisations interviewed for this research who have a uniform policy emphasised that they feel it is critical for their employees to be able to wear the uniform that they feel most comfortable in. For some organisations this meant choosing one of two binary gendered uniforms, but one LGBTQIA advocacy organisation suggested a better approach would be to have uniforms that are gender neutral. Lastly, one employer discussed a recent experience with a non-binary member of staff and how they provided them with a more appropriate personal ID card:

'A member of staff identifies as both male and female, so we got them two security passes, one in a male identity and one in a female identity... on each day they can choose which one they want to use depending on how they feel and that's not a problem. For a building like [ours] which has ridiculous security, that was quite a big achievement.'

Public sector employer #2

5.5 **Personal, sensitive data**

Employers and stakeholders were highly aware of the pivotal importance of handling personal data properly and recognised this can be a challenging part of properly looking after trans staff (see Section 6.1.4). Confidentiality was often one of their main priorities. A key principle was to minimise incidences where a previous name, sex assigned at birth or other sensitive data were kept. Critically, this included updating any archives or backed up systems. Failure to do so can result in outing an employee against their wishes many years after a transition or

disclosing personal information without their consent. One employer explained that they dealt with this face-to-face with the HR department to avoid logging a change request which would leave a paper trail.

Employers discussed how there was just a single instance where a prior identity was legitimately kept as a record; a document to certify employment history for pension reasons. This tended to be hard copy, sealed in two envelopes, locked away and only a very small number of people had permission to access it. Others had a similar protocol but stored the information virtually.

A number of employers also recorded information about trans staff during recruitment or in staff surveys. They were aware that the question wording must be fit for purpose so employers tended to follow guidance from third party organisations with trans expertise or have a working group of trans employees review it. The main approaches were:

- A two-part question to ask first whether someone identifies as male, female, or another way and a second question asking whether they identify with the gender they were assigned at birth; or
- Whether someone who identifies as part of the wider trans umbrella identifies as a trans man, trans woman, non-binary or other gender;
- Including 'Mx' as a title to allow non-binary employees to choose a neutral option.

Many employers reported that this data is only looked at in aggregate and not used to identify individuals. There were perceived benefits of collecting data on trans members of the workforce alongside, for example, staff engagement surveys.

'If the data is telling me that we are lacking in some way, or if some people are having a less positive experience, we can do something about it.'

Public sector employer #4

Employers did not appear to be routinely collecting any data about intersex employees in their workforce.

5.6 Promoting positive workplace relationships

5.6.1 Events and activities

A number of employers had a programme of internal and external events that they organised and contributed to each year. These often coalesced near the Transgender Day of Remembrance held around the 20th November (which honours the lives of victims of transphobic violence), Transgender Day of Visibility (31st March), the International Day against Homophobia, Biphobia and Transphobia (IDAHOBIT, 17th May) and various Pride marches across the UK. Employers used these moments as a springboard to raise awareness and show support for trans staff and customers. Employers did not discuss supporting

intersex-specific events such as Intersex Awareness Day (26th October) to the same extent.

Many employers undertook a range of activities, such as writing articles to distribute to staff, LGBTQIA panel discussions with a specific focus on trans issues, discussions about how line managers and colleagues can be more inclusive, senior staff away days, putting posters on community boards and Pride marches.

'It helps to change hearts and minds and helps people to understand more.'

Private sector employer #4

'You feel like you're part of something.'

(Employee, Case Study)

5.6.2 LGBTQIA staff networks

Many employers had large LGBTQIA networks with dedicated representatives and in one case a specific trans and intersex network. These bring together employees across the organisation in a range of roles and levels of seniority. In some cases, this may include allies. One organisation found that since the introduction of ally membership, membership applications from the LGBTQIA community also increased.

Networks were seen as a platform to provide support and someone to talk to if an employee might be feeling worried, for example about coming out to their line manager. Many interviewees emphasised that staff must be able to approach networks in a personal, anonymous capacity. Activities include:

- Regular peer meetings
- Campaigns
- Co-ordinating feedback from staff
- Peer-to-peer support
- Role modelling
- Workplace interventions such as rainbow or trans flag cards, lanyards or other identifiers for allies to show support
- Administering private groups on social media for trans staff
- Collaborating with HR or diversity and inclusion teams
- Involvement with induction processes.

All employers who had staff networks (and trans employees who could access them) were exceedingly positive, citing them as the most effective activity the organisation had when it came to inclusion of trans staff.

*'[The Facebook group] is a support network, and there are some people who are part of that group that live in really rural areas and they might be the only trans person in that area... The internet brings people together.'*²⁷

(Employee, Case Study)

'[The organisation has] got it right, so, so well, by the visibility of their LGBT network and the allies. They are very, very visible and they encourage the people within their network to sing and dance about the things that they do.'

(Employee, Case Study)

5.6.3 Workplace champions

Many employers and stakeholders also promoted the role of trans workplace champions or representatives. This person was often the first port of call for any questions, concerns or worries; a prominent workplace figure to promote trans inclusion at a senior level.²⁸ These individuals can provide an important leadership role to address transphobia in the workplace and act as role models for other staff who are looking for support related to their gender identity.

'If the top of the office is blogging about something... a lot of people do listen and they do look, so that's a wonderful thing to do.'

LGBTQIA advocacy organisation #3

'Be proud! [for] the colleagues that you have in your company that do identify as trans or non-binary, making sure that they're in a safe environment to be able to be proud about who they are and they're given a platform to talk about who they are, if they want it.'

(Employee, Case Study)

'I think the way you deal with [visibility] is role modelling, talking about it... So many people are scared of the language. You have the conversation, make it clear what you stand for, and that changes people's behaviours and helps people come out.'

(Manager, Case Study)

Trans employees and stakeholders emphasised that representatives who are trans are hugely valuable as they can talk from their own experience. However, it

²⁷ Employees may also need to be mindful about their organisation's social media policies and what counts as appropriate usage.

²⁸ Interviewees suggested this did not necessarily have to be someone with lived experience, although capitalising on this where possible (and where trans employees are comfortable) can be highly effective.

is essential that these trans staff are not *'overused'* and expected to be at every event, on every poster or otherwise over-promoted or over-burdened. Cisgender allies can also help to raise the profile of trans rights and inclusion in the workplace in absence of champions with lived experience.

If a person is transitioning they may want to have a mentor in the workplace who is not their direct manager or someone they directly work with for additional support at that time.

5.6.4 Collaborating with expert third parties

Many organisations collaborated with third party organisations with expertise in trans rights. This involved training, talks, resources, events and help to draft new policies. Interviewees were highly positive about the support they received.

'My suggestion would continue to be that they work with an expert organisation and trade unions really because there is lots of good practice out there that can be collated and drawn on.'

Stakeholder #1

'[The third party organisation] helped us all of the way, they gave us practical advice on how to do it but also technical advice on the law surrounding it and what our responsibilities were.'

(Manager, Case Study)

5.6.5 Workplace bullying

Stakeholders and trans employees were clear about how prevalent transphobia can be in UK workplaces from both colleagues and customers. However, there was a consensus amongst the trans staff and employers interviewed that within the organisations selected for this research, levels of bullying or victimisation were lower than in other organisations.

Interviewees emphasised zero tolerance of anything that could be seen as bullying. This explicitly included anything passed off as 'banter' but in reality that creates unsuitable, unsafe and unpleasant working environments. Trans employees and stakeholders understood that people may make occasional mistakes with names and pronouns and did not want these slip-ups to be disciplined. However, they highlighted that persistent and/or intentional deadnaming²⁹ and misgendering is deeply distressing.

'If we're really clear that we want people to bring the best of themselves to work we can't support any environment that is intolerant of difference.'

Private sector employer #1

'It's important not just to look at whether you are compliant with the law but to actively challenge prejudice, to get rid of and do away with

²⁹ Referring to a trans or intersex person by their birth name rather than their chosen name

transphobia whether that's individual or institutional... improving and bolstering awareness of trans issues and intersex issues, providing that confidentially and mutually supportive environment.'

LGBTQIA advocacy group #3

One stakeholder with wider labour market and employment insight also emphasised the importance of tackling everyday sexism in the workplace. They suggested that work environments with hyper feminine or masculine expectations for gender expressions may be less inclusive for all staff, particularly trans staff. Challenging such expectations can create a more positive environment for everyone.

Attitudes of customers and clients were sometimes an issue for organisations with high proportions of public-facing roles, although interviewees thought that public attitudes were slowly improving. Employers explained that the same zero-tolerance approach would be applied to any customers displaying transphobic attitudes.

'We will not tolerate any form of abuse to our colleagues. We just will not. ... We are proud to stand by our own values including diversity which is a part of who we are... we did recently have a complaint, which had some transphobic and frankly vitriolic language which I won't repeat... we served notice on that account.'

Private sector employer #2

'A colleague was working [and] they haven't undergone gender reassignment and choose to present as male, and their name badge reflected this. The customer was outraged by the situation and a supervisor had to be called. The supervisor told the customer if they were not willing to be served by the colleague in question, they wouldn't be served by any colleague in that store today.'

(Manager, Case Study)

5.7 Training and development

5.7.1 Diversity training

A number of organisations discussed how staff have the option to access formal training either through workshops and or e-learning modules to improve understanding of trans issues. These may cover a number of issues such as what 'trans' means, appropriate language, what a gender identity journey might look like and how they can be more supportive to colleagues at work.

Staff could also access informal training by attending talks at diversity or LGBTQIA conferences, panel debates and Q and A sessions or watching video stories to hear the first-hand experiences of trans people. One employer felt this was a very important way to introduce employees to gender non-conformity that they may not otherwise come across. For example, they invited a non-binary trans woman to talk about her experience of transitioning at work, what managers can do to make people feel at ease and what support is most effective.

Stakeholders felt training – provided it is detailed and accurate - is key to making workplaces secure and welcoming for trans staff. There was more disagreement around mandatory training, with some concerned this would cause friction amongst staff.

'Education is power.'

(Employee, Case Study)

'[In the video] there's a conversation between two people, where one person makes a mistake that a lot of people make, with the other correcting them in a way that's not patronising. Hopefully people will get that we're not trying to correct them, just to show them that some people are not comfortable with that word, so here's a better word to use.'

Voluntary and not-for-profit sector employer #1

5.7.2 Training for general managers and line managers

Some employers also had specific training for line and general managers who may have gaps in knowledge. Training can be critical as line manager awareness and understanding can be one of the biggest barriers to better trans inclusion (see Section 6.1.2). Some of this may be firm-specific, such as how to implement an organisation's short-term absence policy, whereas others were more general and related to using appropriate language, how to manage diverse teams or (particularly for recruiters) unconscious bias.

'Managers need to be able to talk with a degree of confidence and not be a rabbit in the headlight if anything to do with a trans issue is mentioned.'

Stakeholder #2

This was generally in the form of ready-to-go toolkits consisting of guidance, videos, scenarios and policies that line managers could work through. Some employers explained that they felt they could not train every line manager because few will be in the position of managing someone who identifies as trans. However, they had a training package which could be delivered as soon as it was needed. This reduced the risk of line managers conducting their own research and finding inaccurate information from dubious sources, something of much concern to trans employees. Some employers reported that to embed this training each line manager who received the training must cascade it to a wider team afterwards.

'We need to empower our line managers to help to support our colleagues, and at the same time we need to gain sensitivity among our line managers over something they may not have come across before.'

Private sector employer #2

5.7.3 Professional development of trans employees

Most employers did not track the career progression of trans candidates, primarily due to concerns around data protection and identifying individuals. However,

there were a few examples of targeted support for the professional development of trans employees in particular.

The few employers that took direct positive action³⁰ sought explicit permission from trans staff to monitor their data and these individuals would then be offered specific development, mentoring or educational opportunities. For example, this might be used to deliver leadership training to ensure better representation of trans staff at the most senior levels of an organisation.

5.8 Impacts of policies and practices

Stakeholders, employers and trans employees identified a suite of benefits from trans -inclusive policies and practices.

Firstly, they provided clear guidance on how organisations expect everyone should behave towards trans members of staff. Line managers, general managers and colleagues who may be unfamiliar with trans issues had a framework to guide their actions and behaviours and help them gain greater awareness of issues which are frequently misunderstood by the general public. This helped ensure less familiar cisgender managers and staff are more able to have conversations with confidence in future.

Making policies and practices clear and monitoring to ensure they are being followed created an organisational culture which is tolerant, inclusive and safe for trans employees. Employees felt that written policies (when they are properly implemented) made them feel more secure and protected at work and confident that any concerns will be taken seriously.

'I asked somebody from the policy team what difference they think the policy has made. They said "It's given people the strength to walk towards us". The power of knowing that the organisation has delivered a specific policy to support this group of colleagues is in itself, something really powerful.'

(Manager, Case Study)

As mentioned earlier, a number of employers further added that it can be a key part of their recruitment strategy. Inclusive approaches signal that a diverse range of candidates can be successful in the organisation and that their background and experiences will be welcomed. In fact, one trans employee explained they specifically chose to apply for a job at their current organisation because of its track record in supporting trans issues.

'It attracts talent and it's powerful.'

Private sector employer #4

³⁰ Lawful positive action is proportionate activity to remove any barriers or disadvantages for employees or job applicants who are at a disadvantage, underrepresented or have a specific need because of a protected characteristic. Employers must be able to show any such action is reasonable and will not discriminate against others.

'It marks you out as caring about your employees. It's good advertising.'

LGBTQIA advocacy group #2

'The worst case scenario is if someone tries to look for something on their system and there's nothing there because that gives the signal that the organisation isn't in tune with this.'

Public sector employer #4

It also signals to the wider public that an organisation is an inclusive one, which helps to promote the brand.

'If we want to reach out to members of the public... we need to make sure that we identify with them and they identify with us.'

Private sector employer #2

6 Barriers, challenges and suggestions for change

This section reviews the main perceived barriers and obstacles to the inclusion of trans or intersex employees, the main challenges faced by individuals and employers, and suggestions on how employers and individuals could be better supported.

Key findings

Obstacles to the greater inclusion of trans or intersex employees include:

- A lack of knowledge on the part of employers - employers are especially unfamiliar with the needs and experiences of non-binary and intersex employees.
- Insufficient line manager confidence.
- Persisting stigma around trans issues.
- The fact that the trans employees bear the burden of driving the process in organisations.
- Practical considerations relating to issues such as toilets, data management and uniforms.
- Employers could be better supported by ensuring that they avail themselves of the help offered by organisations that offer support on trans or intersex issues. They can also be guided by members of the trans or intersex community and should try to work with trade unions if they are present in the workplace.
- Employees could be better supported by organisations ensuring that they have flexible policies that are implemented fairly and consistently.
- Policies can also underpin organisational efforts to achieve cultural change towards a more inclusive workplace.
- Raising awareness of trans or intersex issues and educating the workforce is also key, as it provides mentors and role models.
- Line manager training is also vital, in order to ensure that line managers are equipped to deal with situations as they arise.

6.1 Obstacles to greater inclusion of trans or intersex employees

6.1.1 Confusion and lack of knowledge

Significant obstacles, as identified by our stakeholder interviewees, were lack of knowledge and confusion on the part of employers. One interviewee noted that the T in 'LGBT' is the part of the acronym that people most struggle with, sometimes resulting in confusion between gender identity and sexual orientation.

Non-binary identities and intersex people are similarly if not more affected by poor understanding and misinformation.

It can also be difficult to build awareness when there are not many trans people in the wider population and so the likelihood of individuals coming into contact with a trans person is relatively low.

'At a basic level, if someone doesn't have any awareness or understanding because they've never been to an awareness raising event or they've never met a trans person, then why would they know anything? And how would they know how to behave appropriately? That can often be at the root of issues. At the end of the day there are not enough of us in the wider population for everyone to say, "oh yes you're not the first transgender person I've ever met and I'm used to dealing with gender identity issues, I'm not too worried about walking on eggshells because I've done this before".'

LGBTQIA advocacy group #3

One key challenge, as identified by interviewees, is challenging assumptions that individuals are one gender or the other, and trying to get people to see that there can be something in-between. Underpinning all of the above is the complexity of gender identity and the fact that there is a fine line between recognising gender identity and not exhibiting negative behaviour on issues related to gender.

'It's about getting people to understand that it's not about placing people in the pink box or the blue box, and I think it can be challenging to get people to see that there is something in between.'

Public sector employer #4

One stakeholder noted that some employers have a discourse about 'not noticing difference' which, although well-intentioned, can make trans employees feel that their identity does not matter, that it can be dismissed. Failing to think critically about gender identity and any potential disadvantages that might arise results in employers being unaware of how to manage gender identity on a practical level.

There was some evidence from the research to suggest that smaller organisations find it harder to create an inclusive environment simply because, due to their small size, staff have less opportunity to meet a trans individual, either in an employee or customer/service user capacity.

6.1.2 Insufficient line manager confidence

Line managers are on the front line when it comes to managing day-to-day issues with employees, including trans-related issues. If a line manager does not feel confident in having the necessary conversations with individuals, this can have a negative impact on the experience of the trans employee. Line managers therefore need support from their organisation in order to ensure that they respond in an appropriate way.

'Line managers panic and think "Oh my God I've got this, what do I do, I need to tell somebody" when actually, they don't need to and shouldn't be

telling people. Discretion becomes an issue purely because they panic and aren't comfortable dealing with the situation.'

Public sector employer #3

6.1.3 *Persisting stigma*

Disclosure rates for trans employees are low. Some people may be comfortable in their affirmed gender and no longer identify as trans or feel the need to disclose. For others, perceived stigma attached to identifying as trans and a fear of bullying and harassment may deter them from doing so. This means that it is difficult for organisations to keep accurate records and to take appropriate positive action to help trans employees.

'Having a special policy in place may not be particularly helpful because if you are gathering information, you have got to be really careful about why you are gathering that information. [Employers need to be] careful about their ability to have confidential records.'

Stakeholder #1

Nevertheless, however inclusive and supportive an employer is, it can be difficult to provide an effective counterweight to pressures from society. Employer interviewees felt that all they could do was to support their trans colleagues as best they could.

'As an organisation you can support your colleagues well but the societal impact is probably the greatest barrier. We can develop an inclusive culture for colleagues internally, but the external culture is the biggest stumbling block.'

Private sector employer #4

6.1.4 *Practical considerations*

There are a number of practical challenges related to the integration of trans employees. Somewhat inevitably, the issue of toilets appears to dominate in many situations. Many organisations now realise that using accessible toilets is an insufficient measure for trans employees and have now stipulated that any new build must have gender neutral toilet provision. However, this issue can be complex and depend on the individuals involved. One employee at the beginning of her transition, before there was a policy in place in the organisation where she worked, explained her decision to use the disabled toilets on the grounds that there were a lot of practising Muslim women in the workforce and, rightly or wrongly, she did not want to risk causing them offence.

Another key practical challenge in the current climate is finance, which will affect investment in facilities such as gender-neutral toilets.

'One of the challenges is that when you're talking about making changes to facilities, particularly in the current climate, people will ask where the money is coming from... You could have the most well-meaning department who at the end of the day will say there is a need for it, but

they say they don't have the money for it, and these are the sort of things that get cut.'

Public sector #4

Some organisations also talked about the fact that their size and complexity made it much more challenging to implement policies consistently as it takes longer to ensure that messages and communications reach the whole organisation. It can also be difficult to ensure that all managers understand trans issues and consistently implement policy, even if training has been rolled out across the organisation.

Further, poor management of data storage on systems can cause considerable stress, for example if names have been changed on one system but not on back-up systems, meaning that old names could appear in documents, making it uncomfortable for people undergoing transition. Other issues that can cause stress include the insistence of photos on websites, which can cause problems for individuals, particularly in the early stages of transition if they feel they do not 'pass'³¹ very well or have concerns about presentation and gender expression.

Finally, uniform is often very in line with a gender binary, so this can limit employees' ability to present their gender in a way they feel most comfortable with.

6.2 How could employers be better supported?

Some employer interviewees felt that they could learn much from the trans communities, and particularly from individuals' personal stories. One interviewee explained that they became involved in supporting trans employees after hearing a colleague open up about their experience. Individuals often feel that they want to get involved after understanding how difficult it has been for some people.

There are a number of organisations that offer support to employers on dealing with trans issues, and employer interviewees felt that they offered good support and guidance overall. Employers can also learn from good practice examples.

Employers could also be helped by having simple, less bureaucratic processes to follow, such as simple template policies. However, there is also a need to recognise that not all businesses/sectors are the same and that there will be different challenges for different companies. This may be particularly the case for industries and organisations who have to comply with various security arrangements. For example, organisations in the financial sector have to comply with various anti-money laundering laws which can restrict or slow down the changes they are able to make.

Events such as the Equalities Week in Wales, the Transgender Day of Remembrance, the Trans Day of Visibility Transgender Awareness Week, Intersex Awareness Day and Pride can be very beneficial for employers, giving them a forum to raise and discuss issues that concern them.

³¹ 'Passing' refers to a transgender person being seen as cisgender. Some people think the term is transphobic because they feel it suggests that 'looking trans' is negative.

If a trade union is present in the workplace, it is advisable for the employer to work with them in developing policy, as trade union representatives can play an important role and can help the employer to develop a policy that is appropriate and inclusive, as noted in the previous section.

6.3 How could trans or intersex employees be better supported?

6.3.1 Procedures and policies

Having an established policy is a good starting point: it can make a big difference to an individual if their employer has an established procedure for dealing with trans or intersex-related issues.

'My biggest thing, and one of the things we're trying to focus on next year, is that whoever you talk to in HR if you're considering transitioning, their response straight away is "no problem, this is how we deal with this". And that is the ideal thing. When a line manager speaks to someone, they should know too what to do and how we deal with it.'

Public sector employer #4

However, it can be very challenging to devise a policy that is both guiding and flexible enough to cover different types of situations. For example, it can be difficult to interpret what adaptations might be needed.

'Adjustments are a positive thing that we can do but we haven't necessarily got the implementation bit right – we don't have a central pot of money for ... adjustments. The principle is great but for us the interpretation and delivery of it is really challenging.'

(Manager, Case Study)

It can, of course, be difficult for organisations to know whether an individual is struggling, as they may not feel comfortable discussing their gender identity or intersex identity. In this case, interviewees felt that it was important to publicise the networks and support mechanisms that exist within an organisation.

'I don't know if there's someone who's really struggling to get the help they need, but [the networks] are well publicised, so I hope they have managed to find the support they need.'

Public sector employer #1

However, some organisations, for instance in the finance sector, are hampered by regulation, for example around money laundering, which means that employees who are gender variant and identify as both male and female cannot have more than one gender allocated to their individual profile.

Whilst it might sound obvious, it is also key that the policies that have been developed are actually implemented, an issue that links to awareness and education. In reality, this is often not always done. A policy is of little use if it is kept in a drawer and not acted upon.

'There's a distinction that needs to be made between having policies, being aware of those policies, and acting and implementing them.'

Stakeholder #2

One such example of needing to communicate a policy is one organisation's policy allowing employees to use whichever changing facilities and toilets match their gender identity. However, this policy had not been communicated effectively to all workplaces and colleagues. This was seen as symptomatic of general unaccepting attitudes, which means that people can be afraid to come out because they are worried about receiving negative treatment for using the bathroom that matches their gender identity.

6.3.2 Raising awareness and achieving cultural change

As noted above, policies are a starting point and a basis for the task of raising awareness of trans or intersex issues within an organisation. Creating a culture of inclusion needs to come from the top: when senior managers are supportive, best practice can filter down through the organisation. Cultural change can only really be achieved if the workforce is fully on board and accepting of trans or intersex issues and trans or intersex individuals.

'Policies and processes help to embed good practice. However, it is more about having top level support and role models who set a good example. Training can be made mandatory to force people to learn, however this does not create lasting cultural change. Lasting cultural change is about getting people thinking, and making the right choices of their own will, because they believe in it.'

Private sector employer #2

This was also very much the approach of one of our case study organisations:

'In isolation a [trans] policy wouldn't work, you have to have a strong cultural way of working; it has to be "the way things are done around here".'

(Manager, Case Study)

At this organisation, diversity issues are embedded in the general culture of the organisation through means such as diversity workshops, diversity champions and induction sessions that cover diversity.

Educating staff is seen as a key factor in raising awareness - for example, making people aware that careless and unintentional remarks, often made without realising, can sometimes be destructive.

'It's about those careless remarks... e.g. the reception is female-dominated so people will say "morning ladies" without even thinking about it.'

Voluntary and not-for-profit employer #2

'We talk about it in terms of levels of maturity, and we have quite a high level of maturity around this stuff... we'd try and work that with a process of education and a zero tolerance of anything that is abusive.'

Private sector employer #1

'The organisations who get it right are the ones who listen to trans people [when designing policies and practices]. And who take a very firm stance on individuals within the organisation that have a problem with it.'

LGBTQIA advocacy organisation #4

Education could also take the form of showing that the experience of being trans is different for different people. For example, this may include highlighting non-binary identities, about which there is comparatively little awareness. In addition, it can highlight the difference between intersex issues and trans experiences.

Further, small gestures can make a significant impact. For example, allowing people to choose Mx, Misc., Pers. or other non-gendered titles on organisational profiles signals that being non-binary is just the same as being male or female.

Some of the stakeholder interviewees made the point that acceptance is partly generational. In some educational establishments, the student community has been reported to expect that the organisation should offer support to trans employees. There also appears to be greater awareness among students that there are not just two gender identities, as some employer interviewees reported that there are relatively more incidences of students who class themselves as non-binary or have a very fluid gender identity than among older generations.

It can also help if the organisation is diverse in the first place. One case study organisations interviewed for this research is an ethnically diverse organisation with a wide variety of staff and customers from different backgrounds. This creates an inclusive environment and level of understanding, because on a day-to-day basis individuals need to respect each other's needs and experiences.

6.3.3 Ensuring that managers are supportive

As noted above, line and middle managers have the job of managing individuals who are trans and therefore need support from their organisation. This covers not just general training on trans issues, but also day-to-day support if they need it.

'It's also about making sure that managers have somewhere to turn so that they can be supported in managing their staff, be it HR or their manager.'

Voluntary and not-for-profit sector employer #1

'[Line managers] need to understand what a trans person needs to go through, not the nitty gritty but they do need to understand medical processes, timescales and things like that, because I still think they have to take guidance from transgender colleagues ... too much and we end up with that whole scenario we were discussing earlier where you're transitioning and then also teaching you manager how to manage you.'

(Employee, Case Study)

Line managers also need to grow in confidence to deal with normal performance-related issues relating to trans employees and be reassured that they can take action that they would with any other underperforming member of staff, without worrying that this might be turned into a gender identity or trans issue.

6.3.4 Other means of support

Trade union representatives, if they are present in the workplace, can provide valuable support to employees. In one case study undertaken for this research the union representative supported a trans employee throughout their transition. This included attending all meetings with management, discussing how to handle certain procedures such as disclosure, and lending a supportive and friendly ear to the employee.

'[The union representative] was in all the meetings with me, but we were learning all this together. But it was useful to have someone there who was on my side completely. Her job was to do two things. Firstly to take notes so that we had an independent set of notes, and secondly to kick me if I said something stupid!'

(Employee, Case Study)

6.3.5 Tailoring the approach

Many interviewees felt that it was crucial to focus on the individual in question, as everyone will be different and have their own journey. It is therefore important to listen to colleagues and ensure that support is tailored to their specific situation and needs. In particular, it is crucial that policies are flexible. Having very process-driven policy implementation which is not individualised can fail to take account of the diversity of the trans experience.

'It's very easy for a policy maker to write a policy that looks fantastic to everyone who hasn't been through that journey, but [the journey is] not rigid, it's not set in stone, not everyone will have the same transition, so it's about how you can create a policy that is guidance on how to have an effective conversation. It's the longer way of doing it, but it's the right way of doing it.'

Private sector employer #4

Similarly, it should not be assumed that one trans employee can speak for all trans employees, as all individual experiences will differ.

7 Conclusions

Although some employers have become more aware of the need to address inclusion of trans staff in recent years, there remains some extensive work to be done. Bullying, negative treatment, misinformation and ignorance are still major issues in the workplace and have a serious negative effect on the inclusion, wellbeing and lives of trans workers. There are some persistent gaps in understanding and discourse about non-binary and intersex experiences. Intersex people appear to have suffered from significant misunderstanding about a) how their needs overlap with trans issues and b) how their needs can be very distinct. Clearly, much work has to be done to improve awareness and understanding amongst employers, employees and the wider public of what it might mean to be trans or intersex. Focussed further research about labour market experiences and needs of intersex employees, in particular with key stakeholders and intersex employees, would add much-needed insight and depth of understanding to good practice.

Generally, the protection that current legislation affords 'transsexual' staff is welcomed, however not everyone under the wider trans umbrella is covered. There were concerns that any issues of non-compliance are left for 'transsexual' employees to challenge and are not being voluntarily enforced by enough employers.

However, the evidence in this report from published research and guidance, stakeholders, 'good practice' employers and their trans employees suggests there are tangible things that can be done to improve management of trans employees.

It is important to have policies which take stock of the needs of trans workers, that provide a framework for behaviour, signal a culture of understanding and inclusion and work as a strong attraction strategy for trans applicants. Policies can shape how an organisation approaches a whole suite of things, such as a workplace transition, recruitment, absence, uniform, use of facilities, and bullying and negative treatment,. However, flexibility in how these policies are delivered is critical. They must have the ability to be tailored to the needs of individual journeys. Furthermore, policies should be introduced proactively and not reactively – having a policy in place may mean trans staff feel more able to come out at work, should they wish, and access the right support. It is fundamentally important that policies are cascaded down to all frontline staff within an organisation and monitored to check they are being followed.

Organisational culture comes from the tone set at the top, so senior managers should be sensitive to and engaged with the issue. In addition, knowledge and awareness training among the workforce and line managers is vital in combatting ignorance, aggression and intentional or unintentional hurtful comments. Manager and recruiter training is particularly vital as they are on the front line in terms of interacting with and managing trans employees. They need to be sensitive and ensure consistent application of organisational policy. However, training for all staff can embed behaviour change across the wider workforce. Induction is a good place to include such training, but organisations could also capitalise on events throughout the year.

Trans people need to have control over the process of transitioning or coming out in a workplace. Similarly, intersex people must have autonomy over if and when

they choose to discuss this. However, care must be taken that they do not bear the full burden of leading the process and those who do come out should not be made to feel exposed. A balance needs to be found. Peer support in the form of staff networks, a workplace champion or trade union representation can ensure that trans staff are able to get the support they need.

Lastly, it is worth considering that the overwhelming majority of organisations who participated in this research (and who have been recognised as exemplifying good practice) are large or very large and have more available resources to direct towards obtaining recognised kite marks. There are likely to be specific challenges for small organisations where there are likely to be fewer trans or intersex staff. Likewise, there are likely many smaller organisations who exhibit good practice but have not been publicly recognised for it.

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9 Appendix 1: Case Study [King Henry VIII School, Coventry]

9.1 Background

King Henry VIII is an independent secondary school with approximately 700 pupils. The school is run by the headmaster who is supported by a board of governors who act as trustees. King Henry VIII is run as a charitable trust. The school does not have an HR department.

The school is very diverse; they are co-educational and an ethnically diverse organisation. They have a wide variety of staff and pupils from different backgrounds. This creates an inclusive environment and level of understanding, because on a day-to-day basis staff and pupils need to respect each other's desires, needs and experiences.

9.2 History of inclusion of trans or intersex employees

Hitherto, the organisation had never knowingly employed a trans or intersex person in the past, nor had they experienced an employee transitioning at work. The headmaster and union representative felt that they hadn't had a great understanding of trans or intersex experiences or issues prior to their colleague transitioning at work.

A teacher at the school decided to transition whilst at work. This teacher had been with the school for a long period of time, and was in a senior role.

9.3 Key features of good practice

The approach taken was to not only ensure that policies and procedures were in accordance with legislation, including The Equality Act 2010, but first and foremost to think about what was best for the individual undergoing transition.

One of the first steps taken by the school was to bring in charity GIRES who provide leading thinking and advice to employers on how to support an employee who is transitioning at work. Training on what it is like to be trans, and how the transition should be managed was put on for all members of the management and governors firstly, followed by training for all members of staff during an inset session. GIRES also advised the school throughout the transition period.

Overall, the lead was taken by the employee when devising a plan with the management team regarding timelines and dates for announcements. The employee informed the management of the time they would need off for medical appointments, and this was treated in the same way as any other health appointment.

'We worked to [colleague]'s timetables which is the most important thing. You can't expect [colleague] to fit around the school's timescales, because they're all down to the National Health Service.'

(Manager)

Disclosure to staff and pupils was highlighted as an area that could have caused stress to the member of staff undertaking transition, and to the school which feared that it could escalate 'out of control' if they could not direct the spread of information. A plan was devised between the employee and management team regarding who to tell and at which point. It was decided that members of staff should be told first, in order for them to receive training. Pupils and parents were informed at the start of a holiday, during which the member of staff transitioned, and returned the following term presenting in their affirmed gender role. It was felt that this time period gave pupils and staff time to adjust to the news, without giving too long a period for them to imagine any possible problems. On their return to school, the staff member felt that after a few days all pupils treated them in the same way as before transition; members of staff soon caught up.

The union representative at the school supported the employee throughout their transition period. This support included attending all meetings with management, discussing how to handle certain procedures such as disclosure, and lending a supportive and friendly ear to the employee.

'(The Union representative) was in all the meetings with me, but we were learning all this together. But it was useful to have someone there who was on my side completely. Her job was to do two things. Firstly to take notes so that we had an independent set of notes, and secondly to kick me if I said something stupid!'

(Employee)

"In my role as rep you need to have some integrity. She needed to be able to trust me, and she did... I was always looking out for her, sometimes [she] would ask if I had a minute, and we would sit and talk things over, as a friend and as a rep"

(Union Representative)

King Henry VIII had in place an Equality and Diversity policy that described, from legislation, the school's responsibilities to pupils as well as staff. The policy was created by taking an 'off the shelf' policy from one of the organisations the school is a member of, and tailoring it to their own surroundings and circumstances.

'I know that as long as we don't change (the policy framework) too much we will be compliant (with the law), but at the same time ...change it to suit our own environment.'

(Manager)

The policy made reference to all of the protected characteristics, including gender reassignment. The terminology used was taken from the Equality Act 2010.

There are plans to rewrite school policies with descriptive examples, taking the learning that was created through the trans employee's experience.

After the member of staff transitioned, a pupil transitioned outside of the school environment. It was suggested that the way the school handled the transition of a member of staff, influenced a culture that was more welcoming and accepting of

trans or intersex people and may have made it easier for the pupil who transitioned.

9.4 Lessons learned

When undertaking something like this in an organisation where an employee may feel vulnerable or exposed, it is important to make the employee concerned feel like they are in control of the situation and what is going on. The employee should be consulted every step of the way.

'While the general route might be the same, you have to make suitable adjustments along the way to suit the person... We did have different options and we made a decision whether to do them as we went through. So having those options available is the right thing to do... while it's nice to have a plan with planned different routes, at the same time you need to have an element of reactivity to the situation.'

(Manager)

The employee who transitioned felt that the school handled the situation as well as they could have, and continues to work at the school.

'Talk to the employee themselves and never make assumptions. And be aware that the employee might not know what's going on either... Assume that things will go well unless there [are] reasons otherwise, but do try to be proactive about possible problems. And if you can avoid them it's better to.'

(Employee)

'General advice is... making sure that there are key people in the organisation involved, management must be involved, and the trans person must be central. No meeting should happen without the trans person there.'

(Employee)

'You haven't got the knowledge, so find the knowledge. Find other schools who have gone through the process and union reps who have done it. Learn from their mistakes and use their best practice. Because there's no point in reinventing the wheel. We went through a massive learning curve, and if we can help somebody else to do that then that's absolutely great.'

(Manager)

Trade Union representation can be an invaluable part of a gender identity journey, although not all representatives may be fully aware of trans life experiences.

'You don't get the training and then decide to be a rep. You get voted in and then you get the training. But even then you don't get training on things like [supporting trans colleagues] straight away. There's quite a lot

of stages before you become trained enough and knowledgeable enough to handle everything.'

(Union Representative)

10 Appendix 2: Case Study [Asda]

10.1 Background

Founded in the 1960s in Yorkshire, Asda is one of Britain's leading retailers providing services to customers in stores, online and through their mobile devices. Each week more than 18 million customers visit its 645 stores - including 30 Supercentres, 392 Superstores, 155 Supermarkets, 33 Asda Living stores, and 35 standalone petrol stations - and websites, and are served by 153,000 colleagues. www.asda.com and www.george.com deliver to 99% of the UK's homes and to its 538 click and collect sites across the UK.

Asda has a number of core values and beliefs that are publicised during recruitment and reiterated at induction to make it clear to potential colleagues that Asda put diversity and inclusion at the heart of the business. One of Asda's values - respect for the individual - guides employee's behaviour and underpins the organisation's commitment to creating an inclusive workplace culture that is free from discrimination.

'We always say, hire for personality and train for skill; that's engrained in the culture of ASDA. We're looking for the right person.'

(Manager)

10.2 History of inclusion of trans or intersex employees

Over the past year, Asda has secured a place in the Stonewall Top 100 Employers list. The LGBT steering group has been committed to driving colleague and community engagement forward: from taking part in Pride events and working with local communities to raise money for charity, to volunteering at LGBTQIA youth groups, creating anti-hate crime leaflets with the National Police Association for community boards in store and sponsoring Sparkle in the Park - the UK's biggest trans pride festival.

'The LGBT steering group plays a vital role in driving forward our diversity and inclusion agenda.'

(Manager)

In addition, Asda won 'LGBT Employer of the year' at the 'British LGBT Awards', and Sparkle's 'Transgender Organisation of the Year' in 2016.

'In isolation a transgender policy wouldn't work, you have to have a strong cultural way of working; it has to be "the way things are done around here".'

(Manager)

In 2014 Asda's business-wide survey 'Your Voice' found that the company needed to do more to support the 1,600 or so colleagues who identified as trans and who were the least engaged group in the organisation. The Diversity and Inclusion Manager partnered with Stonewall Scotland to set up listening groups to gain a

greater depth of understanding about how Asda's trans colleagues were feeling. A number of key barriers to trans colleagues were identified in the listening groups, including support for and awareness of trans issues, absence procedures and using correct names and pronouns. It quickly became clear that Asda needed to have a policy in place to honour its commitment to diversity and inclusion, and fair and equal treatment of trans employees.

10.3 Key features of good practice

A Transgender policy, which incorporates a line manager's toolkit, was developed with the input of Asda's trans colleagues, Stonewall Scotland and Asda's in-house legal team. The policy provides a framework to support colleagues who are trans and covers all employees under the wider trans umbrella.

'The policy itself is a simple document – this is what trans people are, this is what it means to be trans, this is legally what you have to do for trans people, and this is best practice. It's simple but it clearly defines everything.'

(Employee)

The policy provides guidance for managers on how they can best support trans or intersex colleagues, for example, in communicating information about their transition to fellow colleagues (if they wish), and ensures that trans colleagues are not treated less favourably for being absent from work; with absences required for gender reassignment excluded from any absence triggers. The policy also provides information about the key words or terms that could be used in all aspects of trans issues and gives colleagues clear guidance about uniform, toilet and washroom facilities, and the feasibility of making adaptations.

Additionally, a zero tolerance approach to discrimination has been adopted and other support mechanisms have been introduced. Support mechanisms include an LGBT network; which aims to provide all lesbian, gay, bisexual and trans colleagues with support and advice, and a peer-to-peer Gender Identity network, with an associated closed-online Facebook group, which meets quarterly and connects colleagues across the business.

'Policy is the backbone of any employer, but how that comes to life is through the experiences and advice of trans colleagues in the network. The transgender network are constantly pushing Asda forward in terms of policy and strategy, as well as being that layer of support for colleagues. You want to speak to someone who gets it at the end of the day. As much as they can come to me for some policy advice, actually, speaking to someone who's been through it and who knows how it feels is going to be far more impactful than anything I could ever do.'

(Manager)

One of the initiatives that continues to have the biggest impact is an internal video called 'Getting to know you – Our transgender colleagues'. The video features two transgender colleagues who speak about their experience of trans identity development, being trans at work, and how they have been supported by Asda. The video is used in the induction – 'Best Welcome', to explicitly promote

an inclusive workplace culture, communicate the support that is available to trans colleagues, and increase the understanding and engagement of the rest of the workforce.

'By creating the policy, it's given trans colleagues the support they need. Through the policy and training video, the company have managed to get the message out to thousands of people. Now other colleagues understand it and know how to deal with it – and that's a good thing. Times are changing.'

(Employee)

To further embed equality, diversity and inclusive principles and values into the organisation, Asda has integrated their Equality and Diversity policy, which covers what the Equality Act means for Asda, into their Best Welcome induction. Asda additionally has diversity champions in each store, conducts diversity workshops, and incorporates trans policies into everyday working practice - for example, by using realistic scenarios in training programmes to raise awareness and understanding.

'Another tip is embedding the policy into everyday working practice so it's part and parcel of what you do.'

(Manager)

'Asda's company ethos of respect for the individual has helped to embed the policy – everybody within the company drives that forward. It's embedded starting with an employee's Best Welcome. It's written on the stairs as you walk up them. That's one of Asda's main marketable points – it doesn't matter who you are or what you are.'

(Employee)

It is clear that the former initiatives have had a positive impact on trans colleagues' personal experiences at work. For example, one trans employee commented that he had been given time off work for surgery, his return to work had been phased, and he had undertaken light duties until he had fully recovered. Further, he had utilised the Occupational Health service a number of times, and had found the service particularly helpful and responsive to his needs, particularly when he was unable to get a GP appointment at short notice. Finally, when he had faced challenges in his personal life, Asda had approved his request to step down temporarily until he felt ready to resume his responsibilities.

'In terms of what Asda had to do and what they actually did do, the company have been amazing...they're an example of how companies should behave towards people who need specific circumstances.'

(Employee)

'At work the management team have been supportive, colleagues have been supportive, and there have been no issues.'

(Employee)

10.4 Lessons learned

Asda believes that its commitment to being trans inclusive and supportive of trans colleagues has helped it to attract and retain skilled and talented people. Colleagues feel protected from discrimination and supported by the organisation which makes them feel valued and respected; during the first 12 months that the policy was in place, the engagement score of trans colleagues doubled from 22 per cent to 44 per cent.

'The company is clearly defined in terms of equality... Asda have no tolerance for harassment of employees...the company won't watch one of their colleagues get attacked.' (Employee)

'I asked somebody from the policy team what difference they think the policy has made. They said "It's given people the strength to walk towards us". The power of knowing that the organisation has delivered a specific policy to support this group of colleagues is, in itself, something really powerful.'

(Manager)

Asda's primary advice for other employers is not to be afraid. If an employee wants to transition within the organisation, make sure that you have done your research. Seek advice and guidance from external organisations, and have a conversation with the employee to find out how they want to proceed. Be strict about the confidentiality of personal data and disclosure. Once you've up-skilled yourself start to up-skill the rest of the organisation by raising awareness to improve the tolerance and understanding of the rest of the workforce.

'People are scared of what they don't know. If people understand things then they're more accepting of it. If the company don't have a policy, they need to get one. If they can put a [trans] network in place that's great because [being trans] can be an isolating thing and meeting other [trans] people makes colleagues realise that they're not on their own.'

(Manager)

Good practice when managing employees who are trans is to 'Treat them as you'd treat anyone else' and to remember three key things: 'Respect an individual's right to choose what their pronouns are; remember to use those pronouns and look after the individual's mental health'.

It is also useful to have individuals within the organisation who champion equality and diversity - for instance, an ally who understands gender identity and related issues. Finally, make sure that there is support in place for both employees and managers - for instance, by developing a clearly defined trans policy. Employees and managers need to understand what the processes are and how to support an individual who is transitioning.

'My top tips are communication and connection. The bigger and more complex your workforce, the more important it becomes to communicate in different ways. Talk about the individual and their story, don't talk about the numbers. If you have trans colleagues who are willing to step forward

and want to be advocates then work with them. Make connections with the people behind the numbers and percentages. It's really important that it is colleague-led and that colleagues continue to drive it and lead it in terms of where you go next. That's the real legacy.'

(Manager)

11 Appendix 3: Case Study [Barclays]

11.1 Background

Barclays is a transatlantic consumer, corporate and investment bank offering products and services across personal, corporate and investment banking, credit cards and wealth management, with a strong presence in their two home markets of the UK and the US. With over 325 years of history and expertise in banking, Barclays operates in over 40 countries and employs approximately 120,000 people. Barclays moves, lends, invests and protects money for customers and clients worldwide. For further information about Barclays, please visit their website home.barclays

11.2 History of inclusion of trans or intersex employees

After the 2008 financial crisis, senior managers at Barclays wanted to move to a different culture focused not just on what the bank did and its revenues, but how people behaved at work. New values (respect, integrity, service, excellence and stewardship) were embedded in annual performance reviews for every member of staff which they felt had a clear impact on the way things were managed in the business.

'We hold ourselves and our colleagues to account for how we live the values.'

(Manager)

Staff receive regular communications on LGBTQIA topics and so feel hearing about these issues is a regular part of working life at Barclays.

'This terminology and these concepts are becoming ingrained – it's not anything unusual.'

(Manager)

Barclays have an active LGBTQIA network called Spectrum with subgroups everywhere globally where the bank has a presence. They receive guidance, resources and funding for their activities.

The organisation has a number of active trans staff who have transitioned both before joining the organisation and whilst employed by the bank. They and their allies advocate for greater visibility and awareness internally and externally.

11.3 Key features of good practice

Staff emphasised that the values-based approach has a real effect on the wider organisational culture and behaviour of the workforce. For one employee who transitioned a little while before joining the organisation, the LGBTQIA -inclusive ethos of the organisation was what encouraged her to apply for a role. She explained she had grown up in a world where the only exposure to trans people was through 'horrific' media depictions, so throughout her life thought she could never have a career as a trans woman. Coming into contact with LGBTQIA -

identifying employees convinced her that the values of the organisation were born out in its behaviour. It made her feel confident she would be accepted and valued in the organisation.

'My best friend who introduced me to the company is gay and he introduced me to quite a few people who worked for the company who are gay, so it made me realise that I could be part of the LGBT community and still have a career, because it wasn't allowed to be frowned on... Barclays itself proved to me I could have a career as a trans woman'

(Employee)

During the interview process, she explained that she had told the organisation she was trans prior to interview and felt this was dealt in a very effective way. She *'never felt like the fact I was transgender was an issue'*. Although she felt her skills and experiences were put first, she also felt that the company recognised what else she could bring as a trans employee: a different view, a different management style.

Within the organisation, the LGBT network 'Spectrum' is visible, active and viewed as one of the core strengths behind Barclays' approach to trans staff. One employee explained that it is particularly effective because 'the B and the T' are truly an integral part, rather than an afterthought. The network is involved with peer support as well as networking, advocacy and raising awareness throughout the business. There are also a number of workplace champions who individually promote better awareness.

'Their members are really proud to be members and the ally network that they have is phenomenal and they're just really active. There's always something where you can take part in or that you can go along, and it's quality events. They're events that you want to go to and when you go there you feel like you're a part of something.'

(Employee)

The network can be a vital source of support for trans employees during stressful periods. For example, one employee felt her manager was unfamiliar with trans experiences so was unsupportive and wanted her to be less vocal about her gender identity. The employee continued to work closely with her manager, telling them about her life and journey to 'open her eyes'. At the same time she had regular meetings and conversations with Spectrum members who provided her with ongoing emotional support and validation.

Staff felt that the company has a strong approach to any negative treatment from customers towards trans staff. The company recognises transphobia is as serious as more prominent issues such as racism. One employee explained that this makes them feel particularly supported and confident that the company would have zero tolerance for any inappropriate behaviour.

'I genuinely feel that if there was an incident where ... somebody abused me or was [behaving] inappropriately ... and it was to do with my transgender dysphoria, I do feel like I would have the right and the

support to just close an account down because... they wouldn't tolerate it, I think that colleagues would always come first over a customer'.

(Employee)

There is also a full programme of activities across the year to raise awareness of trans issues, many linked to particular events such as the international day against homophobia, biphobia and transphobia (IDAHBT), the Transgender Day of Remembrance or Pride. One employee felt that these public-facing activities are another way that they are made to feel valued as a trans member of staff, because it gives a clear message to current and potential customers that the organisation supports LGBTQIA communities.

Interviewees also highlighted that Barclays' has detailed policies which means that there is a repository of knowledge for any line managers to turn to. An employee explained this is of huge value. It means managers can refer to organisational policies if someone they manage comes out rather than only ask the trans employee themselves. They felt that relying on a trans person to tell their manager everything about how to look after them is quite a burden on top of the other pressures of a gender identity journey. Policies also act as a flag to potential candidates and signal the organisation is engaged with trans issues and will support any trans candidates.

11.4 Lessons learned

The 'tone at the top' is really important, whether from senior managers or from other prominent people in the organisation. There is often a need for those with more seniority to take a lead and set out the position of the organisation. When they do, it helps to challenge prejudice and change the business' behaviour and culture.

'I saw all these people at this event, because they wanted to see the CEO speak, who may have never spent any time thinking about LGBT issues or what that might mean to be an activist for a cause... I could just see people nodding and the light go on as to what it's all about and why it's important... I think all these different things we do, one by one, it helps change hearts and minds.'

(Manager)

It is also important that the values which shape an organisation's culture are embedded into day-to-day practice. By including values as an integral part of each staff member's annual review, the organisation makes it clear how staff should behave. Promoting a trans-inclusive culture can bring significant business benefits, notably being able to attract the best talent.

'For any recruits, it signals this is an inclusive place, so if they happen to experience some of these issues of gender dysphoria... they can realise, this is a potential employer, they're not going to chuck it off the list... like they might do if they've heard stories of the way a company treats its employees.'

(Manager)

