Gender Identity and Expression Policy

Policy owner: EDI   **Approval date and body** : UMT, 23 May 2017

1.0 Purpose

Our University, University College Dublin, has six core values driving our culture; Excellence; Integrity; Collegiality; Engagement; Diversity and Creativity. In line with these values, our University is committed to providing an inclusive and diverse environment in which all members of our University community should expect to be able to thrive and be respected and valued for their unique perspectives and contributions, so that they can achieve their fullest potential. Our University community strives to value and encourage all members irrespective of gender identity, and to respect and recognise diverse gender identities and gender expressions. Gender identity and expression is a positive, core part, of being human and experiencing wellbeing and fulfilment. This concept of a fundamental equality for our University community is central to our University's ethos of academic excellence and integrity and our aspiration to be leaders in our society.

2.0 Scope

Our University is committed to supporting a collegial environment and this policy encompasses the entire University community; colleagues, students[1] and all visitors. This policy applies to:

- All applicants for employment, current employees and former employees (colleagues);
- All student applicants, all students and alumni; and
- All service users, service providers, visitors, customers and clients of our University.

3.0 Principles

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[1] Students aged under 18 are covered by this policy. Such individuals are in a distinct legal position because of their age and should obtain the assistance of a Student Adviser when, for example, seeking to change their student records.

Our University envisions a future where gender self-determination and authentic expression of one's gender are acknowledged as basic rights and matters of common human dignity. It shall be a University community which fosters a culture where the fundamental human rights of all are respected, where individuality is welcomed and embraced, and where all of us can live in freedom and equality, regardless of their gender identity and/or gender expression.

Our University therefore:

- Supports an inclusive environment of dignity and respect whereby everyone can develop their full potential free of discrimination. Our University does not tolerate harassment or bullying or discrimination of colleagues, students or any member of our University community on the basis of gender identity and expression. Any such incidents will be dealt with under the procedures outlined in our Dignity and Respect Policy;

- Respects the privacy of all our University community members and will not reveal information related to their gender identity or status without their prior agreement;

- Supports an environment in which all individuals who choose to be open about their gender identity feel respected, safe, welcome and included in our University community;

- Supports and is committed to provide reasonable accommodations for any University community member that is undergoing social or medical transition;

- Facilitates all University community members and alumni that seek to update their personal records to match their gender identity and expression by providing clear and easily accessible guidelines for all related processes while ensuring confidentiality throughout;

- Encourages and facilitates colleague and student training and awareness to ensure a supportive and accepting environment that will foster a culture of University community diversity and equality; and

- Is committed to removing unnecessary gender distinction within our University.

4.0 Roles and Responsibilities

Our University Management Team has a responsibility to:

- Oversee the development and implementation of the policy in relation to gender identity and gender expression in line with best practice;

- Take all reasonable steps to provide appropriate support to ensure that gender identity and gender expression is respected and create an inclusive environment free from discrimination

- Providing supports for members of our University community in the area of gender identity and gender expression;

- Ensure training in relation to gender identity and expression is provided for key members of our University community ;

- Promote and raise awareness around gender identity and gender expression within our University community and amongst our service users;

- Ensure that this policy, through the Equality, Diversity and Inclusion Group, is monitored and reviewed on a periodic basis.

Our Line Managers/Head of School/Unit have a responsibility to:

- Respect the individual's right to confidentiality and privacy;

- Meet with the individual to discuss their needs and provide supports;

- Support the implementation of the Gender Identity and Gender Expression Policy;

- Inform the individual of their rights and responsibilities;

- Inform the individual of the supports available internally and externally; and

- Promote awareness of Gender Identity and Gender Expression in their area.

Our University community has a responsibility to:

- Respect the dignity of all members of our University community including our visitors;

- Challenge or report incidents of discrimination, bullying and harassment, or victimisation relating to gender identity or gender expression as appropriate to their role in the University;

- Respect the privacy rights of individuals; and

- Comply with relevant legislation.

All members of our University have the right to:

- Be treated with fairness, dignity and respect and to be able to express ones gender identity freely;

- Privacy and confidentiality and only the disclosure of information with consent;

- Equal access to employment, education, training and promotional opportunities, services, activities and facilities in the University;

- Reasonable and appropriate arrangements and accommodations; and

- Access to facilities appropriate to their gender identity.

A university member wishing to avail of University Supports in relation to their gender identity has a responsibility to:

- Inform relevant employees of any support needs as soon as possible to allow appropriate arrangements to be put in place in a timely fashion;

- Provide as much notice as possible to the University if time off is required for medical needs;

- If records are to be changed, request this in a timely manner;

- Ensure that appropriate documentation is submitted as required;

- In order to respect confidentiality, be clear as to who is to be informed around their gender identity or gender expression and who is not to be informed; and

- Follow the accompanying guidelines to this policy.

5.0 Definitions

The words people use to describe themselves and others are very important. Using the incorrect words can (often unwittingly) undermine people's dignity and reinforce exclusion. When in doubt, asking a person how they self-identify is generally the most respectful approach. The following are examples of some gender identities only, and do not capture all that exist.

Gender refers to expectations and stereotypes about behaviours, actions and roles linked to being a "man" or "woman." Social norms related to gender vary across cultures and can shift over time.

Gender binary refers to the predominant social system whereby people are thought to be one of two genders: male or female. This system is restrictive for many people who feel that their natal sex

(sex they were labelled with at birth) does not match up with their gender or that their gender is fluid and not fixed

Gender expression refers to how a person represents or expresses their gender identity to others, such as through behaviour, clothing, hairstyles, voice or body characteristics (See appendix 1).

Gender identity refers to each person's deeply felt internal and individual experience of gender, which may or may not correspond with the sex assigned at birth, including the personal sense of the body. Gender identity is different from a person's sexual orientation.

Gender Recognition Certificate: A certificate issued under the Gender Recognition Act 2015 which enables trans people's binary gender to be legally recognised from age sixteen.

Gender/Sex affirmation surgery, also called gender confirmation surgery, refers to surgical interventions undertaken by some people as part of the transitioning process. It is a process that is undertaken under medical supervision for the purpose of reaffirmation of a person's sex by changing physiological or other characteristics of sex.

Intersex refers to a number of different variations in a person's sex characteristics that do not match strict medical definitions of male or female. These characteristics may be chromosomal, hormonal and/or anatomical and may be present to differing degrees. Intersex people are typically coercively assigned as male or female at birth. Some intersex people identify with their assigned sex, while others do not. Some choose to identify as intersex. Intersex people, like the general population, may or may not identity as trans. Trans people undergoing transition are not considered to have an intersex condition as a result of their transition. (see transition below).

Non-binary and/or genderqueer describes any gender identity which does not fit within the binary of male and female. The term is not a synonym for trans and should only be used if someone self-identifies as non-binary and/or genderqueer.

Sex is the designation of a person at birth as male or female usually based on their anatomy or biology**Trans** is an umbrella term referring to people with diverse gender identities and expressions that differ from stereotypical gender norms. It includes but is not limited to people who identify as transgender, gender non-conforming, non-binary or genderqueer. Trans is shorthand for 'transgender', however, 'transgender' should be used as an adjective, not as a noun. For instance 'transgender people' is appropriate but 'transgenders' or 'Mary is a transgender' could be viewed as disrespectful.

'Transition' refers to a process that entails living in one's actual gender identity rather than in the sex one was assigned at birth. The process generally occurs over a lengthy period of time and can include some or many of the following steps: telling one's family, friends, and colleagues; using a different name and different pronouns; dressing differently; changing one's name and/or sex on legal documents; hormone therapy; and possibly (though not always) one or more types of surgery.

Transphobia is a term used to describe an aversion to, fear or hatred or intolerance of trans people and communities.

Transsexual is a term for people whose gender identity is different from their assigned sex at birth and who seek to transition. The term may not be acceptable to many members of the trans community since it has clinical or medical overtones.

These definitions are derived from the following texts issued by authoritative human rights bodies:

Council of Europe: Commissioner for Human Rights (2009) *Human Rights and Gender Identity*, 29 July 2009, CommDH/IssuePaper (2009) 2. Available at: https://wcd.coe.int/ViewDoc.jsp?id=1476365

Council of Europe: Commissioner for Human Rights (2015) *Human rights and intersex people*, 12 May 2015, CommDH/IssuePaper (2015) 1. Available at: https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806da5d4

Council of Europe (2011) *Discrimination on grounds of sexual orientation and gender identity in Europe*, 2nd edition (Strasbourg: Council of Europe Publishing). Available at: http://www.coe.int/t/Commissioner/Source/LGBT/LGBTStudy2011_en.pdf

European Union: European Agency for Fundamental Rights (2015) *The fundamental rights situation of intersex people*, May 2015, FRA Focus 04/2015. Available at: http://fra.europa.eu/en/publication/2015/fundamental-rights-situation-intersex-people

Ontario Human Rights Commission (2014) *Policy on preventing discrimination because of gender identity and gender expression* (Toronto: Ontario Human Rights Commission). Available at: http://www.ohrc.on.ca/en/policy-preventing-discrimination-because-gender-identity-and-gender-expression

United Nations High Commissioner for Human Rights (2011) *Discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity*, A/HRC/19/41. Available at: http://www2.ohchr.org/english/bodies/hrcouncil/docs/19session/A.HRC.19.41_English.pdf.

6.0 Related Documents and Supports

Legislation

There are different legislative measures in place that protect people from discrimination arising from gender identity and gender expression.

Under the Employment Equality Acts 1998-2015 and the Equal Status Acts 2000-2015 discrimination, and gender-related harassment, which encompasses gender expression and gender identity, is unlawful. The main type of unlawful discrimination involves the treatment of a person in a less favourable way than another person is, has been, or would be treated in a comparable situation on any of the nine grounds. [which exists, existed, may exist in the future, or is imputed to the person concerned]. Discrimination by imputation is also prohibited. This feature of discrimination law reflects the fact that people are often subjected to negative treatment because membership of a group is inaccurately attributed to them. For example, a person who is discriminated against because their employer incorrectly assumes that they are trans could refer a complaint of less favourable treatment on the gender ground, even though in fact they identity with the gender assigned to them at birth.

Irish discrimination law also prohibits harassment, which is defined as any form of unwanted conduct related to any of the discriminatory grounds which has the purpose or effect of violating a person's dignity and creating an intimidating, hostile, degrading, humiliating or offensive environment for the person. Unwanted conduct could take the form of acts, requests, spoken words, gestures or the production, display or circulation of written words, pictures or other material. This aspect of the law aims to uphold the dignity of trans people and requires the University community to proactively ensure that offensive language and behaviour is eliminated / not tolerated.

Some indicative examples of unlawful discrimination because of a person's gender identity or gender expression include:

- Refusing employment, education, services or support;

- Refusing to support a student;

- Making offensive comments about a person's gender identity or gender expression;

- Verbally or physically threatening someone or spreading malicious gossip;

- Refusing to address a person by their correct gender pronoun or new name; and

- Revealing the gender identity of a person to others without their explicit consent, either by disclosing information to individuals or groups – in other words, 'outing' someone.

The Gender Recognition Act 2015 provides a process enabling people to achieve full legal recognition of their gender, and allows for the acquisition of a new birth certificate that reflects this change.

The Public Sector Duty was introduced under the Irish Human Rights and Equality Commission Act 2014. It places an obligation on public sector bodies, in the performance of its functions, to have regard to the need to eliminate discrimination, promote equality of opportunity and treatment of its staff and the persons to whom it provides services, and to protect the human rights of its members, staff and the persons to whom it provides services.

Policies

There are also a number of other related UCD Policies and Guidelines including:

- Equal Opportunities Policy (currently under review);
- Dignity and Respect Policy and Guidelines (currently under review);
- Student Code of Conduct;
- Student Charter; and
- Data Protection Policy.

The Gender Identity and Expression Guidelines should also be read in conjunction with this policy.

As part of the University Policy Management Framework, all new or revised policies will undergo an equality impact assessment to ensure that there is no negative impact on groups across the nine grounds, including gender identity. This tool will also identify how policies are positively promoting equality, diversity and inclusion across the University.

University Supports

Our University provides a wide range of supports and information for employees and students.

For Employees:

- Confidential advice and guidance about EDI provision at UCD through the Equality, Diversity and Inclusion Unit;
- Advice on all aspects of employment through Human Resources;

- Information and support from the line manager;

- Confidential 24 hour service through the Employee Assistance Programme;

- Information and support relating to Dignity and Respect through the Dignity and Respect Colleagues.

For Students:

- Information and Support through the Student Advisers and Students Union Welfare Officer

- Confidential Counselling Service through the Student Counselling Service;

Guidance

A guidance document accompanies this policy and covers the following:

- Appropriate Language and Terminology;
- Facilities;
- Records;
- Communication;
- Accommodation;
- Training and Awareness Raising;
- Supporting People who come out;
- Supporting the Transition Process.

7.0 Version history

Version	Date	Description	Author
1.0	23 May 2017	Approved Policy	UMT