



Improving Trans Equality in Local Government Workplaces

Introduction

UNISON has a proud history of actively and effectively organising, representing and defending lesbian, gay, bisexual and transgender (LGBT) members by tackling discrimination and promoting equality within the union, the workplace and society. UNISON branches are in an excellent position to monitor trans equality policies and to help trans members get organised to raise their voices about their treatment in the workplace.

Transgender people come from every racial and ethnic background, and from every faith community. They are your classmates, your co-workers, your neighbours, and your friends. Chances are that you've met a transgender person, even if you don't know it.

People who feel that the sex/gender they were assigned at birth does not match or sit easily with their sense of self may use the term 'trans' to describe themselves. 'Trans' is usually a good choice for posters/policies. 'Trans' is a descriptive term; it's polite to say "A trans person", not "a trans" or "a transgender". People who use the word trans include those who:

- Identify with the 'opposite' binary gender to the one assigned at birth;
- Have identities that are both male and female, neither male nor female, or which reflect another sense of gender – often described using the term 'non-binary';
- Have a fluid gender identity and may move between different genders;
- Don't experience a sense of gender.

It is good practice to extend equality measures to all trans people with diverse experiences and not just those who transition – that is, make changes to the way they present their gender, to enable them to live in accordance with their gender identity instead of their assigned gender.

There still remains a great deal of anti-transgender bias, gender assumption, and outright transphobia in the world making it a hostile place for trans people to exist. The lack of thorough legal and medical recognition makes life needlessly difficult though day-to-day social and administrative interactions are arguably the primary source of stress and anxiety. As every adult requires an income to survive, the burden on trans people is heavy when the discriminatory conduct of society at large extends into the workplace.

The key concept in equality for trans people is respect – respect for their gender identity, for their right to work or study with dignity, for their name, pronouns and personal identity, for their privacy and confidentiality. Trans people should also expect to be listened to and involved, supported, celebrated and valued.

A recent study showed that three in five (60%) of trans workers have experienced some form of discrimination in the workplace, and that more than half (53%) have felt the need to hide their trans status from their colleagues. A 2017 TUC report showed that 48% of trans workers had experienced bullying and harassment, compared to a third of non-trans workers. This evidence shows just how much still needs to change.

In UNISON, transgender members organise together with lesbian, gay and bisexual members. LGBT members organise at a local, regional and national level. It has a national trans caucus that meets twice a year and reserved seats for trans reps on the national LGBT committee.

UNISON is committed to tackling discrimination and building equality and believes that the key means for promoting all equalities and in particular trans equality issues is through collective bargaining, which is especially important in the context of the current inadequacies of equality legislation and its enforcement.

Current law and legal obligations

Many, but not all, trans people are now afforded protection by the law.

The Equality Act 2010 merged and homogenised much pre-existing Equalities legislation and all employers and service providers, whatever their size, are bound by the Act. Gender reassignment is a protected characteristic under the Equality Act 2010, meaning that trans people are protected from discrimination and harassment in the workplace. Different terms are used to describe the range of people whose gender identity is different from their birth label. The most common umbrella terms are 'transgender people' or 'trans people'.

Although the phrase 'gender reassignment' is used in the Equality Act 2010, it is now generally considered to be out-dated language; *"A person has the protected characteristic of gender reassignment if the person is proposing to undergo, is undergoing or has undergone a process (or part of a process) for the purpose of reassigning the person's sex by changing physiological or other attributes of sex."* Both the Equality Act 2010 and the Gender Recognition Act 2004 are clear that gender reassignment need not involve any medical intervention. However, the phrase is widely misinterpreted to assume that it is a medical process, and this can feed myths and misunderstandings. The Gender Recognition Act 2004 did give some legal protections for trans people that have a Gender Recognition Certificate (GRC), as well as allowing trans people to have their birth certificate updated.

The Equality Duty requires public authorities to have due regard to the need to: eliminate discrimination, harassment and victimisation; advance equality of opportunity; and foster good relations.

Councils have a duty to:

- Have specific policies and procedures to support trans workers including those who are transitioning in the workplace.
- Ensure equal opportunities, recruitment and anti-bullying and harassment policies make specific reference to trans equality.
- Ensure their policies and practices are assessed for their impact on equality for existing and prospective trans employees.
- Ensure that trans equality is included in all induction and training, including staff handbooks.
- Publicise and demonstrate their commitment to trans equality, including annual reporting of equality outcomes.

Levels of awareness and understanding of transgender equality in local government vary significantly. UNISON recognises that there are councils that do have considerable expertise, a real understanding of trans issues, and a passionate commitment to achieving trans equality. But most other employers still don't have specific policies on trans equality. Those that are developing them often consult UNISON on draft policies which reveal widespread confusion about appropriate language, good practice and even the law. This is partly because some local government employers are not creating their equality scheme action plans in a way which is fully trans inclusive.

In a recent survey, 45% of respondents said their employer had a policy on tackling workplace hate and half (49.7%) said they didn't know (UNISON equality survey 2018). We know that policy can't eliminate negative bias in individuals, but a firm policy can help to render it socially unacceptable and provide avenues of complaint when it rears its head in the workplace. Removing explicitly gendered language from existing policy and avoiding it when drafting new policy is crucial in accommodating employees of all genders and it will help all employees feel welcome and accepted. For instance, a gendered dress code is one such policy that causes undue harm to non-binary people who may not feel comfortable with explicitly gendered clothing. Research found that almost a third of non-binary people (31 per cent) and one in five trans people (18 per cent) don't feel able to wear work attire representing their gender expression. Any such policy and practice should extend to volunteers and service users as well.

Unacceptable Levels of Discrimination and Unfair Treatment

The profound levels of discrimination faced by trans people across the UK today can be challenging for anyone, and for some people, it can lead to anxiety disorders, depression, and other mental health conditions. But these conditions are not caused by having a transgender identity but a result of the intolerance many transgender people have to deal with daily.

Results from UNISON's equality survey 2018 highlighted that in the past year more than a quarter (27.2%) of local government workers had either been unfairly discriminated against or unfairly treated at work. of which:

- Most (73.9%) said the discrimination or unfair treatment was by a manager or a colleague;
- More than half (52%) of respondents had reported discrimination or unfair treatment in the workplace and most (35.9%) had reported it to a UNISON representative and had dealt with it appropriately (24.9%). Of those that reported it to a manager, just 11% felt that they had dealt with it appropriately;
- A majority of the respondents that hadn't reported the discrimination or unfair treatment said they didn't because they didn't believe that they themselves or the issue would be taken seriously enough and others (44.9%) added that they were concerned about being picked on or victimized;
- And 1% said that discrimination and unfair treatment was due specifically to transgender status/gender identity.

More survey results can be found here

<https://www.unison.org.uk/content/uploads/2018/11/Equality-Survey-2018-Summary-report.pdf>

Research in 2017 of 871 trans people, including non-binary people, in Britain by YouGov highlights the profound levels of discrimination and hate crime faced by trans people in Britain:

- One in eight trans employees (12%) have been physically attacked by a colleague or customer in the last year
- Half of trans people (51 per cent) have hidden their identity at work for fear of discrimination.
- A third of trans people (34%) have been discriminated against because of their gender identity when visiting a café, restaurant, bar or nightclub in the last year.
- More than two in five trans people (44 per cent) avoid certain streets because they don't feel safe there as a trans person.
- When accessing general healthcare services in the last year, two in five trans people (41 per cent) said healthcare staff lacked understanding of trans health needs.

- More than a third of trans students (36%) in higher education have experienced negative comments or behaviour from staff in the last year.

(LGBT in Britain - Trans Research Report 2017)

<https://www.stonewall.org.uk/sites/default/files/lgbt-in-britain-trans.pdf>

In Scotland over the last few years employers have shown real commitment to their LGBT staff by taking action to become more LGBT inclusive workplaces. However, new research from Stonewall Scotland reveals troubling reports of negative conduct and discrimination in Scotland's workplaces.

https://www.stonewallscotland.org.uk/sites/default/files/lgbt_in_scotland_work_report.pdf.

The report, based on YouGov research of 799 LGBT employees across Scotland found:

- 58% of trans people at work have hidden their identity because they were afraid of discrimination. But it's important to note that trans people are entitled to privacy and should not be made to feel that they ought to be out as trans in the workplace if they don't wish to be. This is about people hiding it due to fear of discrimination;
- Trans workers experience higher levels of negative comments or conduct, with two in five experiencing it from colleagues (39%);
- 6% have been physically attacked by customers or colleagues in the last year because of their identity.

Come Out for Trans Equality

UNISON believes that good practice in transgender inclusion and equality is achievable by councils and that the rewards of good practice are considerable, for all local government employers and for all of their service users and staff.

In July 2018, the Government Equalities Office published their 'LGBT Action Plan (2018)' and says that it will develop a training package to help employers and employees deal with LGBT discrimination in the workplace. The package will be available for organisations to adapt by organisations for their individual needs. The Advisory, Conciliation and Arbitration Service and the Government Equalities Office will ensure that LGBT harassment is included in sexual harassment policies and guidance they issue.

<https://www.gov.uk/government/publications/lgbt-action-plan-2018-improving-the-lives-of-lesbian-gay-bisexual-and-transgender-people/lgbt-action-plan-2018-improving-the-lives-of-lesbian-gay-bisexual-and-transgender-people>.

In November 2018, the Government launched a process to find an organisation to help them develop skills and capacity in the LGBT sector. The government's new LGBT Sector and Community Development Scheme will offer up to £600,000 to

build capability with LGBT groups. <https://equalities.blog.gov.uk/2018/11/08/help-us-to-deliver-the-new-lgbt-sector-and-community-development-scheme>. The Government also launched the LGBT Health Grant Fund, which will provide £1 million of funding to tackle the health inequalities LGBT people face. <https://equalities.blog.gov.uk/2018/11/08/new-funding-to-improve-lgbt-health-and-social-care>.

We need more local government employers to ‘come out’ for trans equality and show their commitment to their trans staff and colleagues by:

- Taking the lead on creating a positive and inclusive working environment for trans people, including challenging prejudice towards trans people;
- Maintaining an awareness of the organisation’s statutory duties regarding trans people;
- Ensuring that all publicity for the organisation conveys a positive message regarding trans people;
- Ensuring that all staff have access to training on trans issues.

Next steps

UNISON branch reps can make a real difference to trans colleagues’ experiences at work, supporting them through transition and helping make sure local government workplaces provide a safe and welcoming environment for everyone.

Branches are encouraged to:

- Challenge any discriminatory behaviour and make it clear that anti-trans behaviour or comments are unacceptable anywhere in the workplace;
- Support trans members experiencing problems at work e.g. being harassed or otherwise discriminated against because of gender identity or transition, and be prepared to give them advice on the next steps they should take, for example, on raising a grievance and attending grievance meetings together. The member may also ask you to speak to the person discriminating against them. Refer to UNISON guidance below;
- Strengthen self-organisation by involving trans members in bargaining, including assessing the equality impact of proposals;
- Work with employers to:
 - Seek a review of current equality policies and procedures outside NJC or other national arrangements (equal opportunities and bullying and harassment policies, recruitment policies, recordkeeping and dress codes)

against UNISON's Model Trans Equality Policy and negotiate improvements to make sure that they promote trans equality;

- Where employers have no specific policies that counter discrimination and harassment and promote equality for transgender people as employees, volunteers and service users, negotiate the adoption of UNISON's Model Trans Equality Policy;
 - Include trans issues in induction training and take an active role in supporting trans workers by running awareness sessions for all employees on trans inclusion;
 - Adopt a zero-tolerance approach to bullying and harassment, including stopping jokes or "banter" about trans issues alongside communicating clear routes to report anti-LGBT bullying;
 - Appoint lesbian, gay, bisexual and trans champions in the workplace to support LGBT employees individually or collectively.
- Finally, to help build and publicise our database of good practice across local government, branches are asked to send examples of local government workplace agreements on trans equality (particularly those agreed after the 2010 Equality Act) and bargaining gains and successful cases on trans equality to m.bailey@unison.co.uk or post them to Marilyn Bailey, Local Government Service Group, UNISON Centre, 130 Euston Road, London NW1 2AY

UNISON Guidance on Trans Equality

Branches are strongly urged to use and promote to members UNISON's guidance and factsheets on negotiating for improvements to workplace equality policies and practice to ensure that workplaces are a supportive environment for trans people:

- We welcome the success of some local government branches in using UNISON's Trans Equality Guide and Model Policy to help challenge transphobia in the workplace. Local Government employers' can adapt and use the model policy. The policy covers a statement of commitment, definitions of terms, legal protections for trans workers, recruitment, tackling discrimination, transitioning at work, promotion and monitoring of the policy.
<https://www.unison.org.uk/content/uploads/2017/12/UNISON-model-trans-equality-policy.docx>. It is recommended that this is read in full and alongside other UNISON guidance below;
- UNISON's bargaining factsheet on Trans Workers Rights gives information about the rights of transgender workers and good practice for employers and UNISON branches. It includes information on terminology, the law, the support for trans members and negotiating checklists.
<https://www.unison.org.uk/content/uploads/2017/06/Transgender-workers-rights.docx>;

- More and more people and organisations are recognising the importance of stepping up and being a vocal ally to trans people. Prominent individuals in politics and in the media are already doing it, as are organisations. But there are also lots of small steps you can take to be a trans ally. Whether it's online or in real life, simply listening to - and supporting - trans voices can make a huge difference. Find out more here <https://www.unison.org.uk/content/uploads/2018/03/24861.pdf>;
- UNISON and the Scottish Transgender Alliance produced 'Gender identity – an introductory guide for UNISON reps supporting trans members. For many reps this may be their first experience of dealing with trans equality. The guide gives a background to what it means to be trans followed by practical advice on common workplace issues. <https://www.unison.org.uk/content/uploads/2017/06/23488.pdf>;
- Workforce monitoring can play a significant part in pushing forward equality policies, if done well. UNISON guidance on workforce monitoring on sexual orientation and gender identify helps branches negotiate effective monitoring of numbers of trans workers. <https://www.unison.org.uk/content/uploads/2017/06/Workforce-monitoring-for-sexual-orientation-and-gender-identity-2017.docx>;
- UNISON guide to tackling hate crime and hate incidents: a workplace issue looks at our role in identifying and encouraging reporting of all forms of hate crimes and incidents at work and outside the workplace. <https://www.unison.org.uk/content/uploads/2017/11/UNISON-tackling-hate-a-workplace-issue-Nov2017.pdf>

For more information go to our 'Come out for trans equality campaign' page and Sign up to keep up to date and get stuck in! <https://www.unison.org.uk/get-help/knowledge/discrimination/transgender-discrimination/>.