

## Trans Inclusion Statement of Commitment

Queen Mary University of London's Strategy 2030 sets our vision to 'open the doors of opportunity'; we seek to realise our mission and become the most inclusive university of our kind, anywhere. The University recognises a body of evidence around particular challenges LGBTQA+ people might face in work and education. Queen Mary seeks to be an employer and educator of choice for the LGBTQA+ community where everyone can be themselves and are duly treated with kindness, dignity and respect.

This Statement of Commitment lays out the University's balanced approach and position with specific regard to trans inclusion. It is the synthesis of various legal duties Queen Mary is obliged to take due consideration of, and further incorporates our Values (Inclusive, Proud, Ambitious, Collegial, Ethical).

### 1.0 Key Terms

**Gender reassignment** describes the characteristic of an individual who is proposing to undergo, is undergoing, or has undergone a process (or part of a process) of reassigning their person sex by changing physiological or other attributes of sex.

Queen Mary note that the term 'gender reassignment' has been challenged by the UK Parliament's Women & Equalities Committee and LGBTQA+ advocacy groups, noting that language has evolved since the original Act of Parliament. On this basis, Queen Mary refers to 'trans people' to reflect current language and terminology that is used in our society today.

### 2.0 Key Commitments

Queen Mary will:

- Foster a safe, respectful and supportive environment where trans staff, students and visitors can work and learn;
- Foster good relations between groups with a protected characteristic;
- Take due consideration in order to uphold lawful freedom of expression.

Queen Mary will not:

- Unlawfully discriminate against trans people;
- Tolerate unlawful discrimination, victimisation or harassment against trans people.

### 3.0 Queen Mary's Commitments to Trans people

#### 3.1 Fostering a safe, respectful environment

Queen Mary condemns all forms of unlawful discrimination, victimisation, bullying, harassment and hate crime perpetrated against trans people. The University will take all allegations of such seriously, in line with our Dignity at Work and Study policies.

- **Direct discrimination** occurs when a trans member of staff or a student is treated less favourably than non-trans members of the Queen Mary community, as a consequence of being trans or being perceived as trans.

- **Indirect discrimination** may arise where a policy, practice or criterion within the University that applies equally to all staff and students has an adverse impact upon trans staff and students that cannot be properly justified.
- **Victimisation** may occur when a trans person, or a person acting on their behalf, is treated less favourably because they have made a complaint that discrimination has occurred because they are trans. If, as a result of the complaint, harassment or further discrimination occurs, this would be 'victimisation'.
- **Bullying & Harassment** are defined under [Queen Mary's Dignity at Work and Study General Guidance](#).
- **Transphobia** is unlawful prejudice against trans people, it may be realised through acts of discrimination, bullying and harassment.<sup>1</sup>
- **Hate crime** is an incident that is perceived by the victim or person to be motivated by hostility or prejudice towards a protected characteristic they are perceived to possess.

Whilst these incidents will be reviewed on a case-by-case basis, examples of inappropriate behaviours towards trans people include (but are not limited to):

- Making jokes about trans people or their trans status;
- Ostracising a trans person;
- The denial/refusal to accept someone's affirmed identity;<sup>2</sup>
- Consistently using incorrect titles, pronouns or names to refer to a trans person – especially where this causes distress, and the affirmed terms of address are known;
- Unduly personal questioning (or any other conduct) which is unwanted and has the purpose or the effect of violating the other person's dignity;
- Inciting hatred or violence against trans people;
- Cyber bullying;
- Physical violence of any kind.

### 3.2 Supporting the needs of trans people

In the delivery of our commitments, Queen Mary will work to create a supportive environment where the needs of trans people are anticipated and met.

#### Updating personal details

The University recognise trans staff and students are more likely than their peers to request a change of personal details (including, but not restricted to, name, title, sex and gender). Staff and student requests to change personal details will be handled promptly, respectfully and, for students, in line with [Queen Mary's Policy on Student Names](#).

#### Attending appointments

The University recognise that trans staff and students may require reasonable time to attend medical appointments related to their transition. For trans staff, in line with [Queen Mary's Special Leave Policy](#), this time, where granted by a line manager, will be as special leave rather than sickness absence.

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<sup>1</sup> This definition has been synthesised from definitions provided by legal opinion provided to the University and LGBTQA+ advocacy organisations.

<sup>2</sup> 'Affirmed identity' matches language recommendations made by The House of Commons Women and Equalities Committee.

## Access to Facilities

The University notes that access to facilities, particularly single-sex facilities, is a factor in balancing the needs of our community and fostering good relations. As a university, we want all of our people to feel included.

The University currently offers a mixture of toilet facilities. All buildings have single-sex facilities for men and women, and some buildings have unisex, single-occupancy facilities. This provision is made to balance the needs of all staff.

The University currently provides unisex, single occupancy changing facilities. This provision is made to balance the needs of all staff.

The University maintains a varied accommodation to meet diverse student needs, including mixed sex and single-sex halls. Students can request to change accommodation throughout the course of their study, should their needs change; such requests are commonly supported by the Residential Support Team, subject to availability. The Residential Support team offer residents support and guidance regarding any aspect of their accommodation.

Queen Mary's default position supports trans people to use the facilities/services which align with their affirmed identity (in line with the Equality Act, 2010 and EHRC Statutory Code of Practice). However, there may be exceptional cases where lawful discrimination is employed by the University, as a proportionate means to meet a legitimate aim, where alternate provision is required to balance the needs of different groups with a protected characteristic, as described in 4.1.1.

In circumstances where an individual is conducting themselves in a manner that violates the dignity and respect of other users, there is a clear case for their removal from the space.

## Confidentiality

Queen Mary will respect the confidentiality of all trans staff and students and will never knowingly reveal any information about someone's trans status or history without the explicit and prior consent of the individual. It is the right of the individual to choose whether they wish to be open about their trans status or trans history.

## Appendices

### 4.0 Key Legislation and Queen Mary

This document provides an overview of the approach Queen Mary will take in supporting trans staff and students in light of the current legislative context. Key duties, as relevant to the University, are identified below:

#### 4.1 Equality Act 2010

The Equality Act 2010 applies to nine protected characteristics: age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion and belief; and sex.

Under the Act, The University undertakes due consideration and regard to:

- Eliminate discrimination (direct and indirect), harassment and victimisation against those with a protected characteristic;
- Provide equality of opportunity for those with a protected characteristic;
- Foster good relations between those who have the protected characteristic and others who do not.

Gender reassignment is a protected characteristic. To be afforded protection by the Act, an individual is not required to have undergone any form of medical intervention;<sup>3</sup> further, individuals perceived as having the protected characteristic of gender reassignment (even incorrectly) are still afforded its protections. Perceptive discrimination protects a broad range of people who may present as gender non-conforming but do not identify as trans; it also protects people who have not yet taken steps, or declared an intention, to change their gender and are treated differently on the perception they may in future.

The Equality Act 2010 sets out similar protections on the basis of Religion & Belief; this protected characteristic affords protections to people of faith and those with a strongly held philosophical belief. Precedent suggests that, in some cases, 'gender-critical beliefs' may qualify for protection under the Act.<sup>4</sup>

The University differentiates between gender-critical beliefs, which are to be protected, and views, perspectives and opinions that do not qualify for protection for any of the following reasons:

- Constitutes harassment or is otherwise unlawful;
- Does not meet the following criteria to qualify as a 'philosophical belief', it must:
  - Be genuinely held;
  - Be a belief, not an opinion or viewpoint;
  - Relate to weighty or substantial aspect of human life and behaviour;
  - Attain a certain level of cogency, seriousness, cohesion and importance;
  - Be worthy of respect in a democratic society;
  - Not be incompatible with human dignity and not conflict with the fundamental rights of others;
  - Be of similar status or cogency to a religious belief.

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<sup>3</sup> Equality Act does not stipulate specific steps, or the nature of these steps, that an individual must take to qualify for protection under gender reassignment; however, EHRC guidance and case law clarifies there is no requirement for this to be medical.

<sup>4</sup> Gender Critical Beliefs afforded protection include the belief that: "biological sex is real, important, immutable and not to be conflated with gender identity"

Where lawfully expressed gender-critical beliefs are a protected characteristic, this must be held in balance with the dignity and respect of trans people and our Values. The University provides [Dignity at Work and Study General Guidance](#) for staff, students and visitors to set and manage expectations of our community.

#### 4.1.1 On lawful discrimination

The Equality Act 2010 sets out particular circumstances in which it is lawful for an organisation to discriminate in a context where it would otherwise be unlawful. There may be situations in which it is appropriate and lawful to exclude an individual from a service or facility on the basis of gender reassignment where this is a 'proportionate means of achieving a legitimate aim' and to further the inclusion of another group with a protected characteristic.

The University is committed to the inclusion of trans people and as far as is lawful, practical and reasonable; we will only seek to exclude an individual on a case-by-case basis and in the most restricted circumstances as required to balance the needs of different groups. An example of this is given below:

##### *Lawful discrimination case study*

A student in same-sex accommodation with a shared bathroom or bedroom proposes to undergo gender reassignment; other students raise concerns with the University on grounds of their religion (a protected characteristic), suggesting that the inclusion of a student undergoing gender reassignment in their accommodation would exclude them and they would be forced to leave. In this instance, and only after all other lawful, practical and reasonable alternatives have been exhausted, the student undergoing gender reassignment may be lawfully excluded from the accommodation and alternative provision found.

This is an example of lawful discrimination; the enactment of this provision will be applied as restrictively as possible and on an exceptional, case-by-case basis where an assessment concludes this exclusion is appropriate and necessary.

#### 4.2 Education Act 1986 and Freedom of Expression

[Queen Mary's Freedom of Speech Policy](#) details the University's commitment to enshrining freedom of speech in the context of our legal obligations and duties (including the Equality Act 2010). The institution has an explicit duty in law to take such steps as are reasonably practicable to ensure that freedom of expression within the law is secured for staff, students, and visiting speakers.

Queen Mary is committed to the application of a clear policy of freedom of speech within the law.

Inasmuch, staff, students and external speakers, may at times lawfully present unpopular, controversial or provocative opinions around trans inclusion; however, these ideas and the manner in which they are presented, should not unduly infringe upon the dignity and respect of people with a protected characteristic.

#### 4.3 Other relevant legislation

**Gender Recognition Act 2004:** The Gender Recognition Act allows trans people who can satisfy the specific evidence requirements, to apply to the Gender Recognition Panel to seek full legal recognition of their acquired gender. If an applicant is successful, they will be issued with a full or interim Gender Recognition Certificate (GRC). A full GRC enables the person to obtain a new birth

certificate which does not disclose the fact that they have changed gender. The Gender Recognition Act also makes the disclosure without permission by a third party of an individual's Transgender status, a criminal act.

**General Data Protection Regulation:** under the GDPR, whether a person is trans is considered "special category data". This means that information about someone's gender identity, trans status or history cannot be recorded or passed on to anyone else without the explicit and prior consent of the trans individual.