

Appendix Three – Transgender Equality and Inclusion Policy and Procedure

1.1 Purpose and Need

Purpose: To set out the approach of Youth Unity CIC Domestic Abuse Service in relation to ensuring equality for, and inclusion of, transgender staff and service users in terms of employment and service delivery; and to provide guidance on inclusive and anti-discriminatory practice with regards to transgender staff and service users.

This policy will ensure knowledge of our legal responsibilities and set out how we will meet and further these in order to meet our commitment to equality. Working towards a vision where everyone is treated with dignity and respect, and creating an environment where individuals are valued and validated. This is central to Youth Unity CIC . ' vision, mission and values.

Need: It is clear from what is known about the prevalence of domestic abuse against trans-people, types of abuse experienced by trans people and additional barriers to leaving abusive relationships that there is an urgent need for support services for this vulnerable group.

Youth Unity CIC believes in extending our vision of equality beyond the absence of discrimination to include active promotion of human rights. As such, it is not sufficient to *not exclude* a particularly disadvantaged and underrepresented group of people; rather, it is necessary to take positive, proactive steps to *include* such a group. This is particularly relevant when evidence suggests that a group disproportionately experiences domestic abuse but is underrepresented in our service user and employment demographics, as is the case with trans people.

1.2 Definitions

Sex: This term refers to biological and anatomical characteristics, which can be defined as female, male or intersex.

Gender: The socially constructed roles, behaviours, activities and attributes that a given society considers appropriate for one's sex.

Gender identity: A person's internal sense of where they exist in relation to being boys/men or girls/women.

Gender expression: A person's external gender-related clothing and behaviour (including interests and mannerisms).

Sexual orientation: Is a term used to describe a person based on who they are emotionally and/or physically attracted to. For example, transsexual women can be described as straight if they are attracted to men, lesbian if they are attracted to women or bisexual if they are attracted to both men and women.

Transgender (trans): This is an umbrella term used to describe a whole range of diversity of gender identity and expression, including transsexual, intersex and cross-dresser.

Transsexual: This is a medical term used to describe people whose sex and gender do not match up. This means someone whose biological sex is female, but whose gender is male or someone whose biological sex is male, but whose gender is female. Transsexual people often feel like they were born in the wrong body. This can be extremely distressing. Many transsexual people have hormone treatment and surgery to align their sex with their gender. The term transsexualism is also known as gender identity disorder and gender dysphoria.

Intersex: This is a term used to describe people who are born with chromosomal anomalies or ambiguous genitalia. Intersex people are usually assigned a male or female gender as babies by medical staff. Sometimes this works and the person's gender identity matches their assigned gender, but sometimes intersex people can develop gender identity issues because they have been assigned the wrong gender. Some intersex people do not identify as male or female, but as intersex.

Gender Recognition Certificate: By law you remain your birth gender unless you apply for a Gender Recognition Certificate to change it legally. Once a GRC is issued, the person's legal gender becomes for all purposes their acquired gender – including for marriage and civil partnership purposes. People with a GRC can apply for a corrected birth certificate if their birth was registered in the UK. The GRC provides enhanced privacy levels for trans-people who are applying for or have obtained a GRC.

Genuine Occupational Qualification: A Genuine Occupational Qualification (GOQ) exists when the specific nature of a job, or duties attached to it, require it to be undertaken by members of one sex.

2 Part One – Policy Statement

2.1 Principles of Inclusion

1. Youth Unity CIC is committed to anti-discrimination practices and striving for equality in relation to trans people (including staff, volunteers, Trustees and service users) and will ensure that their rights are respected and protected.
2. The Transgender Equality and Inclusion Policy will be applied to all Youth Unity CIC policies and procedures that cover aspects of accessing and receiving services. Staff members, volunteers, and Trustees are expected to follow this policy conscientiously to ensure that trans people seeking and using Youth Unity CIC services are not discriminated against.
3. Youth Unity CIC will review and, where necessary, adapt our policies and procedures to ensure that they fully include trans people, both in terms of employment and service delivery, and that older policies do not inadvertently discriminate against trans people. Where Youth Unity CIC policies and procedures refer to 'women', 'men' or 'people', this should be read to include trans people, regardless of the gender assigned at birth.
4. Youth Unity CIC recognises that trans people continue to be discriminated against in society. Our practices will seek to ensure that trans people – whether employed, volunteering or acting as Trustees in our organisation, or using our services – will not be discriminated against on the basis of their gender identity, transgender status, and/or gender reassignment.
5. Youth Unity CIC will not tolerate any transphobic behaviour or speech from service users or members of the organisation, including behaviour or speech that fosters or creates a hostile environment for trans people or anyone associated with a trans person.
6. Youth Unity CIC will treat transsexual people according to the gender role in which they present themselves. Youth Unity CIC recognises trans women as women and trans men as men and will not discriminate against trans people in employment or service provision.
7. In line with The Equality Act Youth Unity CIC single-sex services or separate services for women and men will treat trans people according to the gender role in which they present.

8. We also recognise that, as a group, trans people experience a disproportionate amount of violence and abuse. Whilst Youth Unity CIC supports the gender-based analysis of violence against women, we also recognise domestic abuse against trans people as a form of gender-based violence, and violence against trans women as violence against women.
9. Youth Unity CIC recognises the enforcement of gender norms to be in itself a violent act. Trans people's experiences of violence and abuse are reflective of an attempt (by the perpetrator) to reinforce, and sometimes 'correct', gender roles based on inequality, power and coercion.
10. Youth Unity CIC recognises sexism and transphobia as intrinsically linked ways of regulating 'acceptable' gender expressions. We believe that domestic abuse can only be eradicated when we challenge gender norms – not when we reinforce them through the exclusion of people with a non-conforming gender identity or gender expression.

2.2 Key Legislation

Youth Unity CIC will adhere to the requirements and guidance contained in the following pieces of legislation (and any subsequent amendments to them) in all of our work:

- European Union Gender Equality Directives
- Equality Act 2010
- Gender Recognition Act 2004
- European Convention on Human Rights
- Human Rights Act 1998

The Equality Act (2010) extended previous legislation to protect someone against discrimination who is undergoing, intends to undergo or has undergone gender reassignment. These protections include all people who have identified that they are planning on permanently changing their sex, not just people who have a Gender Recognition Certificate, or have undergone medical procedures. This is known as the 'gender reassignment protected characteristic', and is one of the nine new protected characteristics identified in the Act.

3 Procedural Guidance

The procedural guidance sets out the details that staff will require to carry out their duties in this particular area of work. This sets out both our legal responsibilities and our values as an organisation.

3.1 Service Users

Youth Unity CIC is committed to promoting equality and diversity within the services that we deliver directly to survivors of domestic abuse. This includes making our services accessible to all trans people, who we recognise suffer disproportionately from domestic abuse, isolation and discrimination due to their gender identity.

Youth Unity CIC will make its services available to all trans people, regardless of whether they are intending to undergo or have undergone permanent gender reassignment and whether or not they have full legal recognition.

3.2 Who we offer services to

Youth Unity CIC will treat transsexual people according to the gender role in which they present themselves. Youth Unity CIC recognises trans women as women and trans men as men and will provide services in accordance with this gender.

Youth Unity CIC believes that it is appropriate to have trans women in a women-only space. The idea that this is unsuitable is rooted in the belief that trans women are men, something that Youth Unity CIC believes to be transphobic. Nel Whiting from Scottish Women's Aid explains this misconception:

"The misconception that a trans woman is not a woman because of her biological sex goes against any argument we have about gender. Gender is socially constructed, it is not inevitable and does not go hand in hand with your biological sex. Transitioning is not something which happens overnight. A trans person will likely be aware of their gender identity from a young age thus feelings of not fitting in or being trapped in the wrong body may have been present for a number of years. This further discredits any argument around a trans woman being socialised as a man and the privilege they may have experienced while living their life as a man. A trans woman previous to transitioning will likely not have enjoyed any of the privileges of living as a man, being fully aware of their gender identity opposing perhaps their perceived gender and biological sex."

Any woman who 'intends to undergo, is undergoing or has undergone gender reassignment' is protected by the Equality Act and is entitled to service provision. It would be illegal to ban trans women from accessing our services.

3.3 Access to and receipt of services for trans people

Youth Unity CIC recognises that in many cases it will not be evident that a service user or potential service user is trans, and the service user is under no obligation to disclose their trans status or gender identity. Non-disclosure, or subsequent disclosure, are not grounds to withdraw the service.

Youth Unity CIC aims to create a safe environment for trans people to disclose, and to generate open discussion about gender to promote greater understanding of trans issues and combat discrimination against trans service users.

Youth Unity CIC recognises that being trans is not in any way related to an individual's eligibility or need for services, and indeed, that trans people are proportionately more likely to require our specialist services due to the disproportionate amount of domestic abuse that they experience. Trans people who meet the criteria for services will be provided with the same range of services available to non-trans people.

3.4 Initial Referral

Initial risk assessment to decide whether the individual can be admitted into the service will be carried out without reference to the individual's gender or trans status. A question will be included on the full risk assessment (once an individual has been admitted) to enquire about trans status, which will read: 'Is the gender that you identify with different from the gender that you were assigned at birth?'

Disclosure of a service user's trans status will be on a 'need-to-know' basis and used solely to assist with risk assessment and safety planning for the trans service user and/or other service users. Youth Unity CIC works from a consent-based approach regarding disclosure of information and the individual's trans status will only be disclosed if explicit consent is granted by the trans person. Data protection will be dealt with in more detail later in the policy.

Where a trans woman requires women-only refuge accommodation or a trans man requires male-only accommodation, every effort will be made to accommodate them in accordance with their wishes.

3.5 Gender Recognition Certificates

Youth Unity CIC will not request to see or have information about a person's Gender Recognition Certificate. It is illegal to require a person to show a GRC before offering a service. The certificate has no function in its own right, and exists only as a permission to the General Register Offices of England and Wales, and of Scotland, to correct an individual's birth certificate. Asking for evidence of someone's transgender status implies that the service user will be treated differently depending on this, this implication is unwelcoming and goes against the principle held by Youth Unity CIC ..

Youth Unity CIC believes that it is unhelpful to think about where someone is in their 'transition', but rather to provide a service based on the gender that someone identifies as. It is worth reaffirming the difference and disconnect between gender identity and biological sex here.

3.6 Pronouns

A person should be referred to using the pronouns appropriate for the gender in which they present themselves. This is true regardless of the stage of their transition, whether or not they have taken hormones or had surgery.

If you accidentally use the wrong pronoun just apologise and continue the conversation. A prolonged explanation or justification may make someone feel more uncomfortable. Making a mistake happens but if you purposely continue to use the wrong pronouns or refuse to recognize someone as the gender they identify with this would be seen as discriminatory.

3.7 Being uncertain of a service user's gender identity

The right to present one's gender in an ambiguous manner is usually significantly more limited for trans-women, who may feel compelled to present only with a very typically 'feminine' appearance. Societal demands to demonstrate commitment to their acquired gender by presenting unambiguously 'feminine' at all times mean it is less likely than staff may think that a trans-woman's gender will be not explicit.

Many transgender women will mark their transition by beginning to use a typically female name. This can be one way to recognise someone's gender.

Where the gender of the potential service user or employee is unclear, they should be asked, respectfully, in private, what gender they identify as and what pronouns they prefer.

3.8 Data Collection and Records

Transgender people don't need to show a GRC (Gender Recognition Certificate) in order to change their name and gender on day-to-day documents and records - including for refuge and support services.

This means that as soon as a service user, staff member or volunteer advises you of their gender, you must refer to them, in person and in records, using the correct gender.

3.9 Equalities Monitoring

Youth Unity CIC will ensure that standard referral systems make specific reference to trans issues and that services are monitored in terms of provision to trans people and their satisfaction with the service provided.

When collecting equal opportunities information, the question 'Is the gender that you identify with different from the gender that you were assigned at birth?' will be asked to monitor whether or not a proportionate amount of applications from trans people are being received. Where trans people do not appear to be accessing a service, action should be taken to reach them.

3.10 Other Service Users

Other service users may say that they are uncomfortable sharing a service with a trans person, this is not a legitimate reason for not offering Youth Unity CIC services. Youth Unity CIC must make any decision about provision based on good practice rather than prejudice.

In a situation where other service user's felt uncomfortable, we would work to educate, much in the same way that we would if we received comments regarding other service user's ethnicity, religious affiliation or sexual orientation.

Difficulties for newly arriving service users could be prevented through some proactive measures. For example, ensuring that intake procedure at the refuge includes informing new residents that "We welcome women of different races, different religions, women with mental health issues, lesbian and bisexual women, and transgender women." This discussion would be held irrespective of whether any trans people were in the service at that point.

3.11 Should we talk to other women that use the service to let them know that a transgender woman will be joining us?

This information would only be shared following consultation with the trans service user regarding their own safety and comfort, and would not be legal to do so without explicit consent from the service user. Explicit written consent from the service user should be obtained, and detail the information they would like shared and with whom this should be shared.

The Gender Recognition Act 2004 defines any information relating to a transsexual person's gender recognition application as 'protected information'. It is a **criminal offence**, subject to a level 5 punishment which currently is up to £5,000 and/or up to six months in prison, for anyone acquiring this protected information in an official capacity to disclose it to a third party without the transsexual person's consent.

3.12 Will being inclusive of transgender women make our refuge less safe?

The idea that men are likely to put on women's clothing to gain admittance to a refuge is common but not rooted in fact. It is a concern doesn't match the experience of refuges that have adopted policies that accept transgender women.

If this unlikely situation were to occur, Youth Unity CIC believes that staff would be able to recognise that the person is not sincerely identifying as a woman who has experienced gender based violence: this would be integral to the broader risk management of perpetrator access to safe spaces.

3.13 Supporting a service user planning to transition to their male identity

Just as with any other service user who was telling you something personal to them, be supportive. The individual has probably been thinking about this for a long time and it is likely that he is disclosing this information to you because he feels safe and trusts you and Youth Unity CIC ..

Transition is a process and not something that happens overnight, so there's no need to make any decisions about the service provision straight away. However, when it is appropriate, talk through the options that he has and what he would like to happen.

Someone who identifies as a trans man may no longer feel comfortable accessing a service that is for women, so should be informed about other options. It is important, however, to be aware of the limited support and particularly refuge accommodation available for men. Many trans men, especially men who are in the early stages of their transition may feel that a men's service or accommodation would not feel safe to them. It is therefore important to listen to the concerns and needs of the service user.

If the refuge is not felt to be appropriate it may be possible for Youth Unity CIC to provide services in a different way. This could be done by offering individual, rather than group support or providing support in a different location.

3.14 Employment

This section of the guidance focuses upon the recruitment and employment of transgender staff. In most cases, the gender of an employee is of no relevance to their suitability to do the job.

Youth Unity CIC will treat transgender people according to the gender role in which they present themselves. Youth Unity CIC recognises trans women as women and trans men as men and will not discriminate against trans people in employment.

3.15 Employing Transgender Staff

Youth Unity CIC recognises that a person's trans status is not in any way related to eligibility for volunteering, paid employment, or membership on the Board of Trustees, and applicants for these posts will not be discriminated against on the basis of their trans status, and will be given the same consideration as all other candidates.

A person should not be discriminated against because they have, are currently, or intend to undergo gender reassignment and should be treated in accordance with the gender that they identify with.

As with service-users it is illegal to ask a trans woman to show a gender recognition certificate and they are under no obligation to tell an employer that they have a transgender identity or history.

All employees of Youth Unity CIC will receive equal treatment regardless of their trans status. This applies to all aspects of employment including, induction, probationary period, training and development, support and supervision, appraisal, promotion, remuneration, redundancy, re-deployment, disciplinary action, and dismissal.

Youth Unity CIC fully acknowledges that a trans person may apply for a post, be offered and take up employment within the organisation without their trans status being noted or disclosed.

3.16 Recruitment

It should not be expected that applicants and interviewees for employment would wish to disclose their transgender status or gender reassignment history. It is not a question that should be asked at interview, it is not a relevant criterion in selection.

There is no obligation for a person to disclose their transgender status or gender reassignment history as a condition of employment. If Human Resources/Personnel departments or administrators are informed of the individual's transgender status or gender reassignment history, they will not disclose this to the members of staff leading the recruitment, as this is not relevant information to the selection for the post.

Disclosures of this nature to other staff will be dealt with in the same way as any other confidential personal disclosure.

Job descriptions and supporting information will not contain any unnecessary stereotypes of expectations about the future post holder, including any unintended presumptions that the post holder was assigned female/male at birth.

3.17 Genuine Occupational Qualification Posts

Youth Unity CIC recognises trans women as women and trans men as men. As with any other woman who is applying for a Genuine Occupational Qualification (GOQ) post, it is legal to ask them to show that they are legally female (for example by showing a birth certificate). However, this should be asked of all candidates who are being offered a post to avoid discrimination.

Applying a requirement that a GOQ post could not to be held by a transsexual person would only be objectively justified in exceptional circumstances and could only be applied on a case-by-case basis and not as a consistent rule. This exception has not been tested in the courts and the guidance is ambiguous, any decision to advertise a post as not suitable for a transgender woman would have to be taken with the utmost care – it may be found to be unlawful, it would likely go against Youth Unity CIC principles.

3.18 Records and Data

Records maintained on the personnel file will not overtly refer to a previous name, and records made prior to name change should be updated if appropriate. Access to these records showing change of name and any other details associated with the individual's transgender status or gender reassignment history, such as records of absence for medical treatment, should be restricted and only accessed on a need to know basis.

Need to know refers to those directly involved in the administration of a process, for example the Human Resources and Pension administrators.

Once a person applies for a Gender Recognition Certificate, they gain additional privacy protections under the Gender Recognition Act 2004. Section 22 of the Act makes it a criminal offence for any person to inappropriately disclose information which they have acquired in an official capacity about an individual's application for a Gender Recognition Certificate, or about the gender history of a successful applicant.

Transgender people may choose voluntarily to disclose at a secondary level, for example, answering an equal opportunities questionnaire, or asking for support from a line manager.

The individual to whom a disclosure is made should observe strict confidentiality; any further disclosure should only being made with the prior consent of the individual.

In line with the Gender Recognition Act 2004, Youth Unity CIC will also take all available measures to ensure that:

- A person's trans status is not unlawfully disclosed to anyone. Unlawful disclosure applies not only to direct word-of-mouth communication but also to uncontrolled access to paper or computer files.
- A trans person may consent to information about their trans status being disclosed if they decide that it is in their interests to do so. Where an employee agrees to their status being disclosed, Youth Unity CIC will obtain explicit written consent, ensuring that the employee agrees in advance with which members of staff they wish to share the information and that said staff members are aware of the privacy provisions & penalties for disclosure set out in the Act and within this policy.

3.19 Transitioning Staff

As soon as an employee advises the employer of their gender, the employer must refer and document details of them as such in their records. This information must be made strictly confidential, and services must show that they have ascertained that the fewest possible relevant staff have access to such records.

Transsexual people don't need to show a GRC (Gender Recognition Certificate) in order to change over the name and gender on their day-to-day documents and records. As it is necessary to live fully in the acquired gender for at least 2 years before applying for a Gender Recognition Certificate, a refusal by an employer or service provider to allow this change in name and gendered title at the start of an individual's gender reassignment process would

unfairly prevent that individual from later being able to apply for a Gender Recognition Certificate and would therefore be discriminatory.

Any member of staff who has taken the decision to transition can request a meeting with their line manager and may be accompanied by a trade union representative or colleague if they wish. This meeting will entail a discussion of issues such as employment options during the transition process, taking time off from work for medical appointments or surgical procedures (if applicable), if and how the staff member wishes the process to be communicated to colleagues, employment options during and after their transition and their longer-term employment with Youth Unity CIC ..

With the individual's express written consent the line manager should inform the Chief Executive Officer. The line manager should ensure that those informed have read this policy and procedural guidance and seek clarification and support from HR on anything they are unsure about.

The individual undergoing transition has the right to privacy, and will not be expected to share information about their trans or transitioning status with colleagues. Should the employee choose to inform colleagues, the employee has the right to choose how this is done and who is informed. Where appropriate, the employee's line manager may be asked by the employee to hold a team meeting, including everyone in the team along with any other colleague with whom the employee frequently works with and wishes to invite.

Alternatively, the employee may wish to inform relevant colleagues individually. In every instance, it is solely the employee's decision as to how and when other members of staff are informed, and Youth Unity CIC will respect their wishes and privacy during this process.

Where the employee wishes their line manager or a colleague should be present to show support when the disclosure is made. It is important that the employee plays as full a part in the announcement as desired, with managers giving their full support.

At a minimum, the manager should:

- Make it clear that the person transitioning is a valuable employee and has the management's full support in undergoing transition
- Explain Youth Unity CIC ' Transgender Equality & Inclusion Policy
- Clarify that Youth Unity CIC recognises the employee as their chosen gender and that they should be called by their chosen name and referred to with appropriate pronouns

- Answer people's questions and ensure that staff understand that they are bound by the privacy rules set out in the Gender Recognition Act 2004, whereby the status of the individual undergoing transition will not be discussed with any third party without the prior, explicit consent of the employee.

The employee will have the freedom to choose a date at which they expect relevant Youth Unity CIC employment records to be changed. This may be the date after the first meeting, after they start presenting as their chosen gender, after surgery, or at any other time.

Following the employee's request, all records will be changed, including personnel files, sickness files, pay role details, and any other materials held as paper or electronic files and databases, as well as staff lists, organisational charts, business cards, email addresses and signatures, network log-in details and any other relevant information.

3.20 Female to Male Transition

Youth Unity CIC acknowledges that an existing female member of staff may choose to transition to become a man. We will fully support any employee who makes this decision. Youth Unity CIC will work with the employee to balance their needs with the needs of the service users, as required by the Equality Act 2010.

In the event that the transitioning staff member currently held a GOQ post Youth Unity CIC would work collaboratively to agree a timescale for their transition from female to male, recognising that this may include the option of continuing in the GOQ post during the early stages of gender reassignment. The aim should be to support the employee in finding a new non-GOQ job so that they can change jobs smoothly without the financial hardship associated with a period of unemployment.

Legislation does allow action, such as redeployment to a non-GOQ role and for employers to consider dismissal if no other solution is found. There would be at least a two year period between the person beginning gender reassignment and their legal sex changing by virtue of an application for a Gender Recognition Certificate (the point at which they would legally be unable to hold the GOQ post any longer). Therefore, it would be unreasonable to dismiss a transitioning employee without a thorough and genuine attempt to find another solution.

3.21 References

If giving or requesting a reference for someone moving to a new job, the reference should be in the name requested by the employee. It may sometimes be necessary for a transgender person to disclose a previous identity in order for references from past

employers to be obtained. In these cases strict confidentiality and respect for dignity should be applied.

3.22 Discrimination and Harassment

Youth Unity CIC is committed to creating an environment in which everyone is treated equally and with respect. Youth Unity CIC aims to eliminate discrimination against trans people in its structures and employment practices as well as to encourage change in individual behaviour and attitudes and to promote and ensure equality of opportunity and treatment for all staff, as detailed in our Equality & Diversity Policy.

Harassment (which does not have to be targeted at a particular person who is known to be trans, but also includes transphobic language, jokes or actions which create a hostile environment) and bullying are serious disciplinary offences and will be dealt with under the appropriate procedures. This applies to Youth Unity CIC staff, volunteers and other individuals with whom we works, such as colleagues from partner agencies.

Staff, volunteers and service users will avoid using, and staff and volunteers will challenge the use of, language which in any way belittles or could offend a person's trans status or gender identity. Where any language used has a personal impact on others, and it has been made clear to the person concerned that their use of such language is unwelcome and/or unacceptable and/or offensive, disciplinary action will be taken if they use such language again.

Serious cases will be regarded as gross misconduct and, as such, may result in summary dismissal. Our approach to the use of appropriate language includes use in relation to social media and all materials developed or used by Youth Unity CIC ., which will be judged in the light of our policy of promoting trans equality and inclusion. Any materials or language considered to be discriminatory will not be used.

Bullying, harassment and discrimination are not tolerated at Youth Unity CIC .. Examples of discrimination towards a transgender member of staff could include but is not limited to:

- Refusing to promote as a result of trans status
- Refusing to support a member of staff who is transgender
- Deliberately excluding a transgender person from non-work related activities (i.e. - staff night out etc)
- Transphobic language
- Verbally or physically threatening a transgender person
- Repeated remarks relating to an individual's gender identity or trans status which an individual finds offensive.

- Sexual harassment of a transgender person
- Revealing the transgender status of a person to others, either by disclosing information to individuals or groups (note: this is also a criminal offence).
- Claiming ignorance or confusion about transgender issues in order to continue intentional abuse and discrimination
- Refusing to refer to someone with their preferred name or pronouns

It will be made clear to the person concerned that their behaviour is unwelcome and/or unacceptable. Should they persist with it, in the case of a member of staff, disciplinary action will be taken; or, in the case of a service user, the warnings and terminations procedure will be invoked.

3.23 Medical Leave

Youth Unity CIC recognises that, where a trans person is employed within the organisation, they may need time off work to access medical and/or surgical appointments.

It is unlawful discrimination to treat transsexual people less favourably for being absent from work for gender reassignment treatment than they would be treated if they were absent because they were ill or injured; or if they were absent for some other reason and it is not reasonable to be treated less well.

As such, employees who are transitioning will be able to take time off for medical and/or surgical appointments and treatment in line with Youth Unity CIC Leave Policy. Flexible working patterns and requests for unpaid leave will also be considered in line with the relevant policy.

3.24 Disclosure & Barring Service

The Disclosure & Barring Service (DBS) has to be aware of any previous names and/or genders of DBS-check applicants. However, the Bureau has now devised a process that allows trans people to pass details onto them without first revealing them to the employer.

The DBS has developed a separate application procedure, which allows trans applicants to exclude previous names from the Disclosure Application form. Applicants are then required to send details of their previous identity in a separate letter directly to the Sensitive Casework Manager within the DBS. The DBS will then check the data sources held against both current and previous names.

All employees and applicants who are required to complete a DBS check must be provided with details of how to make a separate application to the Sensitive Casework Manager. This will ensure that any trans members of staff are able to make an application without having to disclose their trans status to colleagues.

Under the Gender Recognition Act, volunteers or employees of Youth Unity CIC cannot pass on details of a person's trans status to a third party if the trans person has a Gender Recognition Certificate, but the Chief Executive Officer needs to be informed if a DBS check reveals any relevant previous convictions. For this reason, it is important that all applications for DBS clearance are to be handled by, and be returned to, the Youth Unity CIC Data Protection Officer, who will provide the CEO with the relevant returns when received.

Where there are no convictions recorded, the details of any previous names that have been provided directly to the DBS will not be revealed on the Disclosure. Where a conviction, or, in Enhanced Disclosure cases, other relevant information has been recorded under a previous name, this will be revealed on the Disclosure and as such details of any previous identity may be revealed.

If there is disclosure of an employee's former name on a DBS clearance return:

- The Data Protection Officer should contact the employee or applicant and inform them that disclosure is going to be made to the CEO, and that whilst their former name and gender will not be disclosed, the nature of the convictions may mean that the CEO will be able to surmise their birth sex.
- Current employees must be given the choice of either allowing the disclosure or resigning from their post.
- Applicants for employment must be given the choice of allowing the disclosure or withdrawing their application.
- Where an employee chooses to resign or an applicant withdraws their application, then the Data Protection Officer must inform the CEO that there were convictions on the DBS return.

The Data Protection Officer is responsible for telling the employee/applicant that:

- If they apply for another similar post with vulnerable people, and Youth Unity CIC is asked their reason for leaving, Youth Unity CIC will not disclose their former name or

birth sex but, subject to the seriousness of the convictions, may emphasise the need for the other organisation to obtain DBS clearance, and

- If Youth Unity CIC is asked about their application for employment, Youth Unity CIC will not disclose their former name or birth sex but, subject to the seriousness of the convictions, may emphasise the need for the other organisation to obtain DBS clearance.

3.25 Staff Training

Youth Unity CIC is committed to providing appropriate training programmes to make this policy an effective working document. We will continue to increase our knowledge of and sensitivity to trans issues through ongoing training on transgender equality and inclusion and specific issues faced by trans people who have experienced violence/abuse, to our employees, volunteers and Trustees.

New members of staff, volunteers and Trustees are made aware of this policy and their obligation to implement it through induction processes and through the circulation of any subsequent updates.

Recognising that prejudice and discrimination against trans people is usually founded on ignorance and/or fear of a perceived (but generally not real) threat, Youth Unity CIC is committed to cover discrimination against trans people within its equality and diversity training, both internally and externally, to improve understanding of trans people and their needs in relation to domestic abuse.

3.26 Dealing with Complaints

If any volunteer, trustee or employee feels that they have been, or are being discriminated against, in any way, they are entitled to pursue the matter through either the Grievance Policy.

All instances or complaints of discriminatory or transphobic behaviour will be treated seriously. Complaints or allegations of an unfounded or malicious nature will also be treated as serious and may involve using the disciplinary procedure.

Where service users feel they have been treated unfairly in respect of any services as a result of their trans status they should use the complaints procedure.

Any form of discrimination based on a person's trans status against any member of staff, volunteer, Trustee, service user or visitor shall result in disciplinary action. Youth Unity CIC classifies refusal to work with a trans person as a form of discrimination.

Any Youth Unity CIC employees or volunteers who feel they have been discriminated against as a result of their trans status or their association with a trans person should discuss this with their line manager. If this does not resolve the concern, the staff member may raise a formal grievance as per the Grievance Policy.

3.27 Is it ever legal to treat a Transgender person differently?

The Equality Act 2010 does allow for treating trans people differently in certain circumstances, but only if a service provider is able to show that they are fulfilling a legitimate objective in a fair and reasonable way. The service provider needs to show that a less discriminatory way to achieve the objective was not available. The service provider therefore needs to consider the need of the trans person for the service, the detriment to the trans person if they are denied the service, the type of service being provided, the facilities available, the views of the trans person, the stage of their transition and the effect on other service users.

It is never legal to entrench treating transgender people differently in policy; it must be approached on a case by case basis. It should only ever be considered in extreme circumstances, and whilst it may be legal, would likely compromise Youth Unity CIC.' commitment to equality and anti-discrimination.