

Institution: Manchester Metropolitan University		
Unit of Assessment: C17 Business and Management		
Title of case study: Removing the barriers to decent work for transgender people		
Period when the underpinning research was undertaken: 2002-2020		
Details of staff conducting the underpinning research from the submitting unit:		
Name(s):	Role(s) (e.g. job title):	Period(s) employed by submitting HEI:
Stephen Whittle (OBE)	Professor of Equality Law	2001-present
Period when the claimed impact occurred: 2014-2020		
Is this case study continued from a case study submitted in 2014? No		
<p>1. Summary of the impact</p> <p>For over 20 years, Professor Whittle has worked with governments, policy-makers, and transgender communities to address the discrimination that the latter face; particularly in the workplace. Through sustained engagement with these vulnerable groups, Whittle has had an impact on policy and practice. Building on his earlier research, which informed both the Gender Recognition Act (2004) and the Equality Act (2010), Whittle played an important role in the Transgender Equality Inquiry (2016), which called on the Government to ensure full equality for the estimated 600,000 transgender people who live in the UK. These recommendations later fed into proposed reforms to the Gender Recognition Act (2004). His research has informed both UK and European employment practice through the creation of toolkits designed to challenge transphobia in the workplace, influencing the HR policies of over 100 universities and several major healthcare trusts across the UK.</p>		
<p>2. Underpinning research</p> <p>As one of the world's leading figures for transgender equality (see REF 2014 case study), Whittle has investigated the social, economic and legal conditions in which transgender people in the world live, and the ways in which these conditions can negatively influence them in all aspects of their lives [1-6]. In 2006, Whittle was invited by the International Commission of Jurists to join a distinguished group of human rights' experts to co-author an authoritative legal tool (<i>The Yogyakarta Principles</i>) that addressed a broad range of international human rights standards and their application to issues of sexual orientation and gender identity. One of its key principles advocates for the right to 'decent and productive work without discrimination to ensure equal employment and advancement opportunities in all sectors of society'. This aim is reflected across Whittle's research that demonstrates the inextricable links between the two main areas of life in which discrimination and inequality most impact upon transgender people's lives - healthcare access and the workplace.</p> <p>Recent years have seen a significant increase in the public presence of transgender people in the workplace. However, access to decent work and stable employment remains a greater challenge for these groups than many others. In 2007, Whittle was commissioned to conduct research [1] on behalf of the Equalities Review that aimed to provide an understanding of the long-term underlying causes of disadvantage that needed to be addressed by public policy. Whittle explored transgender people's experiences of inequality in the UK with qualitative and quantitative data collected from 86,000 emails and an online survey conducted with 872 self-identified transgender individuals. These data were then analysed in the context of the major legal and social changes of the previous decade. The main trigger point for inequality or discrimination was discovered to be the point of gender transition in the workplace, with evidence demonstrating the importance of paid employment in enabling transgender groups to access gender-confirming treatments and the positive impacts a secure working life can have on successful transition. Findings revealed a lack of legal protection in the workplace and, as a result, the study recommended that additional research should take place to explore the reasons why employers were failing to comply with their legal duty to protect transgender employees. The research also recommended that transgender awareness-raising and training for employers, and those working in Human Resources, was essential [1]. The Equalities Review, chaired by Trevor Phillips, former Head of the Commission for Equality and Human Rights, published its final report: <i>Fairness and Freedom</i> in February 2007. This report was instrumental in informing both the modernisation of equality legislation towards a Single Equality Act (The Equality Act, 2010), and the development of the new Commission for Equality and Human Rights.</p>		

Whilst the 2010 Equality Act significantly clarified and expanded the protection afforded to trans people as a result of the Equalities Review, further research [2] undertaken by Whittle in 2016 demonstrated that a significant number of UK workplaces were still failing to meet their legal obligations in relation to transgender employees. In fact, the research found that 80% neglected to mention non-discrimination policies for transgender staff. Further analysis revealed a lack of workplace mechanisms for trans voices to be heard and that they were largely silenced by being subsumed under Lesbian and Gay lives, which offered them no anti-discrimination protection. These findings led to the development of an innovative framework developed by Whittle for research that calls for new theoretical positions, and further empirical study to identify human resource management challenges. This included the exploration and identification of best practice for providing a safe and respectful workplace that supports transgender employees' personal choices, e.g. to be seen and be vocal, or to maintain their right to privacy for their transgender status and medical history [2]. In 2016, Whittle's research, published in *The Lancet*, demonstrated how discrimination against transgender people can affect their access to quality healthcare, and severely impact on their working lives. The study explored how identity documents can undermine privacy when they reveal a transgender person's birth-assigned sex, thus increasing the risk of discrimination in education and the workplace. Excluded from much of the workplace, transgender people (notably transgender women) often enter a narrow, and frequently dangerous, range of occupations, e.g. sex work [3].

In 2017, Whittle theorized the recent changes in the transgender community, in particular the growth in non-binary gender identities, and took the first look at how UK law, particularly the Gender Recognition Act (2004) and the Equality Act (2010), needed to change to accommodate these identities and improve how gender identity is managed in the workplace [5]. In 2019, identifying a continuing absence in the research around protecting transgender employment rights, Whittle conducted further research investigating the development of laws protecting transgender people against discrimination in Europe, focusing specifically on legislation relating to employment issues for transgender people in the UK. The study revealed that legal studies continue to focus on the transgender person's right to birth certificate change, their right to marry and the medico-legal issues of treatment and surgery. They are rarely concerned with employment rights protection for transgender people, despite employment often being cited as one of the most important 'quality of life' issues for adults. Many clinical professionals still consider being engaged in either full-time employment, full-time volunteer work, or full-time higher education as key to a successful transition [6].

3. References to the research

[1]. Whittle, S, Turner, L and Al-Alami, M (2007) Engendered Penalties: Transgender and Transsexual People's Experiences of Inequality and Discrimination, The Equalities Review https://www.ilga-europe.org/sites/default/files/trans_country_report_-_engenderedpenalties.pdf

Whittle cited as part of the Reference Panel:

https://webarchive.nationalarchives.gov.uk/20100702220159/http://archive.cabinetoffice.gov.uk/equalitiesreview/reference_grp.html

[2]. Alexandra Beauregard T, Arevshatian L, Booth J E, Whittle S. (2016): Listen Carefully: transgender voices in the workplace, *The International Journal of Human Resource Management*, 29, (5), 857-884, DOI: [10.1080/09585192.2016.1234503](https://doi.org/10.1080/09585192.2016.1234503) (cited in *Equalities and Human Rights Commission Key Trans Reading List 2020*)

[3]. Winter, S, Diamond, M, Green, J, Karasic, D, Reed, T, Whittle, S, Wylie, S (2016) Transgender people: health at the margins of society, *The Lancet*, Vol 388, (10042), 390-400 (240 citations) DOI: [S0140673616006838](https://doi.org/10.1016/S0140673616006838) This article has received 265 citations (Scopus) (cited in *Equalities and Human Rights Commission Key Trans Reading List 2020*)

[4]. Whittle, S. (2020) 'A Perfect Storm: The UK Government's Failed Consultation on the Gender Recognition Act 2004', in Ashford, C & Maine, A (eds) (2020) *Research Handbook on Gender, Sexuality and the Law*, Camberley: Edward Elgar Publishing Ltd, ISBN: 9781788111140

[5]. Clucas R, Whittle S. (2017) 'Law', in Richards, C; Bouman, W and Barker, M (eds.) (2017), *Genderqueer and non-binary genders*, London: Palgrave-Macmillan, ISBN 978-1-137-51053-2 <https://www.palgrave.com/gp/book/9781137510525>

[6]. Whittle, S (2019) Employment Issues for Transgender and Gender Variant People: A legal perspective in Bouman, W & Arcelus, J (eds) (2019) *The Transgender Handbook – A Guide for Transgender People, their Families and Professionals*, New York: Nova Science Publishers

4. Details of the impact

Influencing International Transgender Policy

Since *The Yogyakarta Principles* were adopted in 2006 [A], they have become an important reference for defenders of Lesbian, Gay, Bisexual, Trans and Intersex (LGBTI) rights. Between 2014 and 2020, they have been cited in over 20,000 articles [A]. They have been employed in several countries to help protect transgender rights and opportunities and provide an invaluable tool for activists working on sexual orientation and gender-identity issues to ensure that everyone has the right to decent and productive work without discrimination. Several influential organisations have endorsed them, including the International Commission of Jurists, Amnesty International [A], Oxfam, and the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), a worldwide federation of 1,200-member organisations from 125 countries. The Principles have shaped impactful policy documents including the 2018 UN Refugee Agency global report aimed at protecting the rights of LGBTI asylum-seekers and refugees [A]. Both the Scottish and Irish Government reviews of the 2004 Gender Recognition Act in 2017 similarly underline their importance: *The view of the Scottish Government is that the 2004 Act requirements are unnecessarily intrusive and do not reflect the best practice now embodied in the Yogyakarta Principles* [A]. They are also cited as key transgender equality principles within the final Transgender Equality Report below.

Influencing UK Equality Policy

The Equality Act 2010 provided explicit protection for transgender people in the UK against discrimination. Despite its far-reaching influence and significance, transgender groups and supporters have since called for a review of the Act to include 'gender identity' rather than 'gender reassignment' as a protected characteristic, and to remove exemptions, such as access to single-sex spaces. In 2015, acknowledging the inequalities and prejudice still experienced by the transgender community and the struggle faced by support agencies, the House of Commons commissioned its first inquiry into addressing equality issues faced by transgender people, with a specific call for evidence around employment and workplace discrimination. Following on from his earlier research conducted for the 2007 Equalities Review, Whittle was appointed as a Specialist Advisor, playing a significant role, not only in drafting the final report, but in helping the Women and Equalities Committee interpret the written evidence received from over 250 submissions; mainly from transgender individuals:

We are very grateful to our Specialist Advisor, Stephen Whittle OBE, Professor of Equalities Law at Manchester Metropolitan University, for his help and guidance throughout the inquiry (Justine Greening, Minister for Women and Equalities) [B].

In 2016, the above Committee published its report on transgender equality, including evidence that the current protections are not universally seen as legally complete and that many transgender people still face discrimination in employment [B]. In the light of this report, a new package of work to ensure transgender people are given the support they need – including a review of the Gender Recognition Act – was announced. In 2017, Whittle was invited by Justine Greening MP to review and advise on the framing of the public consultation initiated by the above inquiry. The consultation received over 108,000 responses and re-emphasised the negative trend that many transgender people are unemployed due to discrimination in the workplace, which in turn creates barriers for obtaining medical care and a diagnosis. Transgender groups also felt that if employers had a better understanding of the law, it would empower them to make more informed decisions and act accordingly. Despite overwhelming public support (approximately 70%) for reforms around gender recognition and self-identification, the Government announced in July 2020 that these would not be adopted. This sparked a national debate with Whittle continuing to campaign to make legal transition easier, arguing that the failure of the Government to respond to the figures in the consultation has left the trans community feeling ignored and despondent, especially young people who are worried about their future. In December 2020, the Women and Equalities Committee launched the Gender Recognition Act (GRA) Inquiry, designed to scrutinise whether the Government's recent reforms went far enough in promoting transgender equality. Whittle, who helped to shape the Gender Recognition Act in 2004, was one of the first academics invited to

submit evidence to this Committee. He argued that more could, and should, be done to simplify the gender recognition process for the transgender community including removing the need to provide medical evidence and enabling individuals to self-identify as their chosen gender would improve transgender equality [B]. The Women and Equalities Select Committee GRA inquiry is due to report over the summer of 2021.

Shaping Transgender Workplace Policy and Practice

In response to the findings of the Transgender Equality Report (2016), the Government called for employers and service providers to consider the report's recommendations when setting their transgender policies to ensure that they were preventing discrimination and disadvantage. In 2017, Transgender Europe (TGEU) commissioned Whittle to explore common barriers to, and good practice examples of, a transgender-friendly workplace. This led to a practical, accessible, hands-on guide to support employers, human resource managers, business owners and other stakeholders. Whittle's toolkit: *Trans-Inclusive Workplaces (2017) – A Guide for Employers and Businesses* [C] (funded by the Rights, Equality and Citizenship Programme of the European Union, the Open Society Foundation, and the Government of the Kingdom of the Netherlands), is aimed at advising employers and businesses on how best to support transgender employees in the workplace, to advocate anti-discrimination and human rights. The Director of Programmes at the International Lesbian and Gay Association (ILGA) underlines the importance of this resource for transgender employees: *"The guidance continues to be used by TGEU and other organisations, such as ILGA Europe and ILGA World and provides invaluable support for trans employees and their employers around legal protection and human rights issues"* (Director, ILGA) [C]. The toolkit is also endorsed by the CEO of Workplace Pride: *"This comprehensive and sensitive overview will not only help transgender people better adapt to the workplace but, just as importantly, be an important coaching tool for those around them"*. Whittle's research on listening to transgender voices has transformed policy guidance in the UK workplace across a range of settings. The reach and significance of this is evidenced below:

Impact on Higher Education: Since 2014, Whittle's research has underpinned Advance HE (previously the Equality Challenge Unit) guidance on transgender staff and student policy. This supports educational institutions to develop more trans-friendly environments, as well as meeting important legal obligations in terms of staffing, tuition and pastoral care. The publication 'Trans staff and students in HE and colleges: improving experiences' (2016) [D] has informed transgender guidance used by over 100 UK Higher Education Institutions (HEIs), [D] as well as all 164 UK and international members of [Athena SWAN](#).

"Many thanks for your invaluable contribution to our policy guidance: Trans staff and students in HE and colleges: improving experiences. Your research evidence specifically underpinned the section on name changes and will help staff understand the complex issues that a transgender individual (either as a student or an employee) might face as well as help them to ensure that the most appropriate support is provided" (Ellen Pugh, Senior Advisor, Advance HE) [D].

Impact on NHS: Whittle's research underpins NHS workplace policy and practice in several UK Healthcare Trusts (e.g. Nottingham, Birmingham, Merseyside and Blackpool) supporting both patients and NHS managers at all levels – as employers and as planners, commissioners and providers of services – to understand the needs and rights of transgender people across the sector [E].

Impact on the Crown Prosecution Service (CPS): In 2014, Whittle's research underpinned the Transgender Equality Management Guidance [F], which provides practical information for CPS employees to manage transgender equality issues within employment and service delivery.

Raising Awareness through Public Engagement

Since 2014, Whittle has worked with the UK, Irish, Hong Kong and South African governments, the Council of Europe, the UK Immigration Appeals Tribunal and the European Commission, and has been an expert advisor for the NHS England Gender Identity Services Clinical Strategic Commissioning Group (2013-2020). He has been invited to share his research insights at

innumerable events and across many diverse platforms including: London School of Economics, Durham Castle Lecture Series (2015) [G], Royal College of Psychiatry, UK Office for Nuclear Regulation, Human Rights Lawyers Association (2019) and Oxford Union Debating Society. Whittle has also helped to shape public understanding of transgender experiences through several high-profile public and media engagements. In 2014, he produced a historical timeline for the National Museum of Liverpool's ground-breaking trans-heritage exhibition, 'April Ashley: Portrait of a Lady' and spoke at its opening alongside Lord Prescott. The exhibition, which highlighted the battle for legal rights for transgender people in the UK from the 1950s onward, attracted 930,000 visitors over a 17-month period [H]. Whittle has been interviewed for *The Guardian* and several BBC outlets, including as an expert on BBC Radio 4's *The Moral Maze* and the Australian National News Programme *ABC News*. In 2018, Whittle was invited to write the briefs for, and participate in, Channel 4's controversial series 'Genderquake', which reached an audience of 2.82 million. In 2020, Whittle featured on the Guardian's podcast: *Today in Focus* 'Understanding the fight over trans rights' exploring how transgender rights have become established in the UK [I].

5. Sources to corroborate the impact

[A] Evidence corroborating the impact on international transgender policy: 1. Yogyakarta Principles on the Application of Human Rights Law in relation to Sexual Orientation and Gender Identity (2016) and Whittle Interview with the Heinrich Böll Foundation (2017); 2. TGEU International Best Practice Guides; 3. Amnesty International; 4. UN Refugee Agency Global Report (2015: p10); 5. Scottish Government Review of the Gender Recognition Act (2017, p13, para 3.08)

[B]. Evidence corroborating the impact on UK policy including significant input into Women and Equalities Committee 1. Transgender Equality Inquiry (2016) Women and Equalities Committee Report, House of Commons, (p9 para 18); 2. As above (p24 para 91); 3. Women and Equalities Committee: Reform of the Gender Recognition Act (2004) Oral evidence from Whittle (2020): <https://committees.parliament.uk/oralevidence/1394/default/>

[C]. Evidence of the reach and significance of toolkits for gender equality in the workplace: 1. Trans-Inclusive Workplaces (2017) – A Guide for Employers and Businesses – a toolkit and call for action, Berlin: TGEU (*cited in Equalities and Human Rights Commission Key Trans Reading List 2020*); 2. Testimonial: Director at ILGA confirming the importance of Whittle's employment toolkits

[D]. Reach and significance of transgender guidance for HE Sector: 1. ECU Trans staff and students in HE and colleges: improving experiences (3rd edition 2017: p75); 2. Examples of University HR Guidance: University College London (2016), Queen's University Belfast (2019); 3. Testimonial: Senior Advisor, ECU confirms the importance of underpinning research

[E]. Influence on NHS policy and guidance citing Whittle's research, e.g. Mersey Care NHS Trust (2014: pp5,22), Royal College of Nursing (2015: p30), Blackpool Teaching Hospitals (2017: p9), Nottinghamshire NHS Trust (2018: pp7,8,13), University Hospitals Birmingham (2019: p9)

[F]. CPS Transgender Equality Management Guidance (2014, p4) includes acknowledgment of Whittle's advisory role in the CPS Community Accountability Forum Transgender Equality Sub-Group.

[G] Link to Whittle's presentation 'Gender What Future Does It Have?' Durham Lecture Series; (2015) <https://www.youtube.com/watch?app=desktop&v=lap2DLdI8Vs&feature=youtu>

[H]. Making a Difference The Economic and Social Impact of National Museums Liverpool Report (2017, p10)

[I]. Evidence of coverage in the Media and associated reach including: 1. A major two-part set of features "Today in Focus, Understanding the Fight over Trans rights" (*The Guardian*, 7th and 8th Oct 2020, reach 81m); 2. 'Shifting sands': six legal views on the transgender debate, *The Guardian*, (19th Oct 2018, reach 1.52m); 3. Defining Gender: The Moral Maze, *BBC Radio 4* (15th Nov 2017, reach 3.28m); 4. Interview with Transgender Activist Stephen Whittle, *ABC News* (10th March 2016); 5. Transgender at the Office, *BBC Global News* (9th July 2015)