Gender Neutral

Dress Codes

A Guide for Trade Unionists

STUC LGBT+ Workers' Committee
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A Guide for Trade Unionists on Gender Neutral Dress Codes

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Gender neutral dress codes

Dress codes may be legitimately used in the workplace for a number of reasons:

- **Health and Safety** (e.g. PPE, bans on jewellery etc.)
- **Visibility** (e.g. uniformed services)
- **Business purposes** (e.g. requiring business dress, personal grooming)

Dress codes must not discriminate in respect of the protected characteristics of the Equality Act (2010), which includes provision for transgender employees to wear clothing appropriate to their identified gender. There is provision for employers to distinguish between male and female dress codes, but these must ‘apply equally’. For example, ‘business dress’ may specify a tie for male employees only but dress codes should not be more onerous for one gender than for the other - comfort and health and safety issues may be relevant here - and should be enforced equally on men and women.

In some cases, this would be clear cut, for example a rule that required female workers to wear make-up but made no corresponding requirement (e.g. a smart haircut, rules about facial hair) on their male colleagues would almost certainly amount to less favourable treatment because of sex, so would be discriminatory. With other aspects of dress codes / uniform the position may be less straightforward because men and women usually dress differently. In such cases a tribunal would be likely to apply a reasonableness test.

A recent parliamentary report¹ found evidence of extensive sex discrimination in workplace dress codes and called for better guidance for employers on applying equality and health and safety laws within dress codes. In particular, they identified the requirement to wear high heels – causing discomfort, pain and on occasion, long term damage to feet and lower limbs – and make-up as significant issues.

“For me personally, it was a bit dehumanising and humiliating to be made specifically to wear items of uniform that sexualised my appearance or enhanced my sexuality – no aspect of the men’s uniform was designed to enhance their male sexuality.”

Ruth Champion, Giving evidence to the Parliamentary Inquiry on Dress Codes

¹ [https://www.publications.parliament.uk/pa/cm201617/cmselect/cmpetitions/291/29106.htm](https://www.publications.parliament.uk/pa/cm201617/cmselect/cmpetitions/291/29106.htm)
The Committee also found evidence that women were being forced to dye their hair blond, to constantly reapply make-up and were being asked to wear revealing outfits.

The Committee received evidence of the extreme pain and suffering caused by wearing high heels for prolonged periods of time. This included reports from workers that their feet would bleed, that their feet would hurt so much that they were unable to walk or lead a normal life, and that some women required corrective surgery which left them out of work for extended periods. The Committee found evidence that even in pregnancy women were not always excused high heels. The Committee heard reports from women that the pain was so great that some women became unable to concentrate on the task in hand, putting them at a disadvantage compared to male colleagues in flat shoes, and that they dreaded going to work because of the pain.

It was clear from the findings of the inquiry that employer's dress codes often include requirements for women that have an impact on their health and wellbeing but which are not subject to any health and safety assessment. The fault here lies with the employer, as the law does protect workers if it is properly applied and enforced.

While these issues have the potential to affect all women in the workplace, there are specific issues affecting LGBT+ people in particular, and as such, the STUC supports the development of gender-neutral uniform and dress code policies.

**LGBT+ women and workplace sexism**

LGBT+ women who do not conform to gendered stereotypes face additional ‘othering’ and barriers in the workplace and are often forced to “pass” and conform in order to secure employment. This further renders LGBT+ women invisible in the workplace, with potentially far-reaching impacts on personal and professional identity.

Many dress codes will build in assumptions around gender stereotypes and can be quite conservative in their view of what is considered ‘smart appearance’ for both women and men. When considering dress codes, thought should be given to the appropriateness of these assumptions and how they affect LGBT+ workers, particularly non-binary workers. Examples might include rules around hairstyle, clothes, make-up and facial hair.
Trans, non-binary and intersex people and gendered dress codes

The STUC LGBT+ Workers’ Committee Guidance for supporting trans workers (2015) states:

*The employer should be flexible regarding dress code, including the wearing of make-up and jewellery, etc and should understand that, for the employee changing their appearance gradually is an important part of the real life test. It is also important that the trans member decides when it is comfortable for them to change into the uniform appropriate for their gender. The employer should pay for any new uniforms, and should not treat the employee any less favourably than other groups.*

However, a growing number of LGBT+ people identify as non-binary, agender, genderfluid or genderqueer, and may not feel comfortable presenting as “male” or “female” in the workplace. Flexible, sensitive and gender-neutral dress codes are important to such workers, who may face intrusive and discriminatory comments about their clothing and appearance.

**Case Study - NHS**

An NHS employee was beginning their transition from female to male. The clinical uniform for male staff was not considered suitable as this would not have been a comfortable fit for a member of staff early in their transition due to managing their chest binding. Discussion took place with the employer to ensure that the staff member was able to wear an alternative outfit, namely a white lab coat and tie. While this was different to the dress code for male clinical staff in their profession, it enabled them to work safely and with more dignity during their transition.
Gender neutral doesn’t mean male!

We fully accept the need for workplace dress codes, particularly when these relate to workers’ safety and wellbeing in the workplace. At the same time, workers must be able to exercise choice and control over their appearance and wear clothing which is safe, comfortable and appropriate both to the working environment and to their gender identity and expression.

The STUC Women's Committee has a long running campaign around Personal Protective Equipment which, particularly in traditionally male dominated areas, is often designed on the assumption of a male worker with a male workers body! While some progress has been on this through the work of trade unions, issues still remain. For example pregnant workers often face particular challenges and can often be forced to use ill-fitting PPE equipment.

Gender neutral dress codes must take into account the needs and choices of women and female-identifying people to ensure that all workers are comfortable and safe. Unions should work with employers to ensure that appropriate PPE is available for all body shapes, this may include by sourcing specialist equipment from a range of suppliers.

Case Study – Royal Mail

Due to the style and cut of the "female" trousers and shorts, many women working for Royal Mail actually prefer to wear the "male" variants. For many years there were few options to override the uniform purchasing system and allow women and men to order from the opposite catalogue. Often staff were forced to designate themselves permanently as the opposite sex on the system or rely on the support of colleagues or individual managers to make orders and receive clothes that were properly fitting.

Work is ongoing between the union and the head of uniforms to allow staff to choose from either catalogue and therefore pick whichever style of clothing they deem is correct for their body shape.
**LGBT+ workers in insecure employment**

Workplace dress codes are not limited to formal guidelines driven by health and safety requirements or public visibility. ‘Informal’ dress codes affect all sectors of the economy, from hospitality to teaching, and are often more difficult for workers to challenge.

Workplace dress codes are particularly difficult for LGBT+ workers in insecure employment to challenge, particularly young LGBT+ workers who may still be exploring their gender expression or at the early stages of transition. Trade unions have a huge role to play in developing workplace-wide policies which will benefit all staff, including those who are less able to speak up for themselves.

*Case Study - Macdonald Hotels*

Work from Better than Zero suggests that stringent and gendered dress codes are extensively used within the hospitality sector in Scotland.

Macdonald’s Hotels, for example, have a requirement to wear both high heels and skirts written into their uniform policy, with no assessment of the health and safety impacts or the effect on LGBT+ employees. Unite has a specific campaign in Macdonald Hotels which seeks to organise workers, particularly migrant women, and challenge such systematic sexism. Their Fair Hospitality Charter includes demands to improve the sector for, and alongside workers. [www.fairhospitality.org](http://www.fairhospitality.org)