

Transgender & Work

This information has been extracted from information provided by the Equal Opportunities Commission (please note updated information is being drafted by the EOC and expected to come on stream in summer 2006)

This leaflet provides advice to employees who are undergoing gender reassignment. It may also be a useful source of information for people who are not familiar with transgender issues.

Definitions

Transgenderism or transsexualism is a recognised medical condition where an individual believes he or she was born in a body of the wrong sex.

Gender reassignment is the process, undertaken under medical supervision, of reassigning a person's sex by changing physical, social or other characteristics.

Real life test refers to the transition period in gender reassignment during which the individual must live and work in the new sex.

Your rights under the Sex Discrimination Act (SDA)

You have the right not to be discriminated against at work because of the fact that **you intend to go, are undergoing or have undergone gender reassignment.**

This means you are protected from harassment, redundancy and dismissal and less favourable treatment in recruitment, promotion, pay, access to work-related benefits and vocational training.

The law applies to you whether you are an agency worker, temp, professional partner, apprentice, trainee, subcontractor or other kind of contracted worker.

To make a claim under the SDA, you need to show that 'but for' your gender reassignment, you would not have been treated this way.

Exceptions

Discrimination on grounds of gender reassignment may occasionally be permitted where:

- A particular gender is a requirement for a job, eg women's refuge worker
- The job involves conducting intimate searches
- The job involves working in someone's home.

Temporary exceptions may apply during the transition process where:

- Individuals have to share accommodation
- Personal care services are provided to vulnerable individuals.

Even so, your employer has a responsibility to assess each situation carefully and act reasonably in the circumstances, eg considering alternatives such as reassigning duties.

During your transition and the Real Life Test

You should meet with your employer to agree how your transition will take place. Some of the issues you may need to discuss are:

- The timescale for any medical or cosmetic treatment
- When and how to inform colleagues and clients
- When to change your name, personal details and social identity
- The need for flexibility in the dress code, where applicable
- Amending personal records
- Using single-sex facilities
- Ensuring hostile or negative reactions among the workforce are addressed effectively
- Whether you wish to stay in your current post or request redeployment.

Confidentiality

Legally, you do not have to disclose your transgender status or previous identity to your employer. Where you do so, eg for references, you are entitled to strict confidentiality.

Your legal status

You have the right to change your personal details and to live as a member of the opposite sex to that recorded at birth. You can change your name and official documents, eg driving licence, passport or medical card, to reflect your new gender identity.

Gender Recognition Bill

The Gender Recognition Bill is currently* going through Parliament. If it succeeds it is expected to become law in summer 2004, and will become the Gender Recognition Act. Its implementation will mean that, subject to conditions, you will be able to apply for a gender recognition certificate in your new sex. You will then have the same legal rights in employment as a person of that sex.

* The information drafted by the EOC was published in May 2004.

Additional Information taken from the Draft Code of Practice on Gender Equality - New Legislation (coming soon)

Gender reassignment discrimination and harassment in access to goods and services will also be unlawful from late 2007, under the European Goods and Services Directive. Public authorities will also be legally required to take this into account under the duty, from the date that government regulations are introduced.