

# **The Workplace and Gender Reassignment**

**A Guide for Staff and  
Managers**

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## Foreword from our Civil Service Diversity Champion

*This Guide is a first class document. It is comprehensive, authoritative and powerful. It is required reading for everyone who works with a transgendered colleague. It should be required reading for anyone who cares about creating a truly open, diverse and supportive Civil Service, where every one of our colleagues can feel valued, respected and understood. I commend it. And I thank a:gender both for producing it and for all their other work which makes them an exemplar for all Civil Service staff networks.*

*Paul Jenkins QC*

*Her Majesty's Procurator General, Treasury Solicitor and Head of the Government Legal Service*



# Introduction

Employment, or the lack of it, is a foremost concern of most people. The status by which we are known in the community, the access to social contact through the workplace and, by no means least, the financial remuneration are all vital considerations for all. And so too for transsexual people. Often they experience social stigmatisation through non-acceptance in the general workplace and yet at the same time have a particular need of that employment in order to meet requirements of the 'Standards of Care' applied to their treatment, and also to fund such gender reassignment treatments that are not necessarily available from state run or private health insurance schemes. And having secured treatment, all becomes somewhat pointless if the transsexual person cannot maintain employment because of an unaccepting workplace.

Gender reassignment is irrelevant to a person's ability to perform a job. Indeed, having previously had to live with the pressure of gender dysphoria, a transsexual person who has completed a change of gender identity may well emerge a better worker than before.

Between 1996 and 1999, the legal responsibility of employers to protect transsexual employees from discrimination in the workplace was clearly established by a series of changes in legislation and test cases. The 2004 Gender Recognition Act was a further milestone in this climate of change affording some transsexual people, but by no means all, legal rights that had been previously denied. The Equality Act 2010 has cemented gender reassignment as a protected characteristic with a public sector duty requiring public authorities to pay due regard to the elimination of discrimination, harassment and victimisation of transsexual staff and service users, to advance equality and to foster good relations between transsexual people and others. This should be a catalyst for best practice that provides a working environment that meets the needs of transsexual people, supports their aspirations and improves life chances for them and their families.

With a lack of inherent awareness and misconceptions prevalent, it is not surprising confusion has sometimes arisen regarding the employment rights of, and employment procedures relevant to transsexual staff. This document has therefore been compiled to provide general guidance and advice to staff and managers about transsexualism and gender reassignment issues that are relevant to civil service employees.

This guidance is based on an original document authored by Dee Evans in 2007. Whilst this was developed for the Home Office use, it has proved a useful source and been well received across many departments. Thus, this updated document takes a more generic approach to accommodate the wider Civil Service and public sector organisations.

# Terminology

**Gender** : Gender consists of two related aspects; *gender identity* which is a person's internal perception and experience of their gender; *gender expression* which is the way that the person behaves and lives in society and interacts with others, based on their gender identity, to live in the *gender role* (male or female) recognised in society. *Acquired gender* is used to describe the person's gender role after reassignment

**Gender dysphoria** : *Gender dysphoria* describes the discomfort experienced when a person's sense of being a man or a woman (their gender identity) is inconsistent with the physical appearance of the body. In its persistent form, this is known as transsexualism. This is a medical condition.

**Gender reassignment** : Under the Equality Act 2010, a person has the protected characteristic of *gender reassignment* if they are proposing to undergo, are undergoing or have undergone a process (or part of a process) for the purpose of reassigning their sex by changing physiological or other attributes of sex. This is a personal process that may involve medical interventions such as counselling, psychotherapy, hormone therapy or surgery, but does not have to. In this guide, *gender reassignment/gender change/change of gender* is used to describe the process of change and *gender transition* to describe the time when gender role is changed.

**Transsexual** : An adjective to describe a person who began life as one biological sex, then implements the personal process of gender reassignment to complete a transition to appear, and behave as the opposite sex. Those that have completed the process may not regard themselves as transsexual people but as men or woman, having resolved the conflict between their gender identity and gender expression.

Also used by the Equality Act 2010 to define *transsexual people* as those people who fall within the definition of those people with the protected characteristic of gender reassignment.

**Transgender (often abbreviated to “trans”)** : This is often used as an 'umbrella term' to include all people who experience gender dysphoria and express this in some way. *Transgender* includes transsexual people but is much wider to embrace a wide variety of gender expression including those who have no intention of permanently changing gender and who do not identify as either men or woman.

**USE OF TERMINOLOGY IN THIS GUIDE – the word 'transsexual' is used in relation to those who intend to, undergo or have undergone a permanent change of gender. The words 'trans' or 'transgender' are used to include those people outside the definition of 'transsexual people'.**

**THIS GUIDE is written in relation to those effecting or having completed a permanent change of gender. However, ALL trans people are entitled to the same dignity and respect afforded to others in the workplace.**

# Part I: The Medical Aspect

## 1. DEFINITION

**Transsexualism** is the manifestation of *gender dysphoria* at its most extreme, whereby there is an overwhelming, ongoing desire to live and be accepted as a member of the sex opposite to that 'allocated' at birth. It follows that there is a persistent discomfort with the individual's anatomical sex and a sense of incongruence with that gender role.

The process of gender reassignment is most frequently accompanied by treatment that can include hormone administration and surgery to reassign the sex characteristics of body so that these realigned with the individual's inner gender identity.

The syndrome of 'gender dysphoria' was introduced to the medical community in the early 1950s by Dr Harry Benjamin. His work has developed into what is now the World Professional Association for Transgender Health (WPATH) 'Standards of Care', the basis for treatment by many clinics around the world. In medical and scientific disciplines, gender dysphoria is increasingly understood to have a biological origin and is strongly associated with a neuro-developmental condition of the brain. Studies, such as those conducted by Professor Van Gooren, of a region in the hypothalamus of the brain which is smaller in women than in men showed that in male to female (MTF) transsexual people this region was of female size or smaller. The view that the weight of current scientific evidence suggests a 'biologically-based, multifactorial etiology' for transsexualism is supported by articles in journals, the press and popular scientific works. Transsexualism is therefore innate, not acquired. It cannot be 'cured' by psychological or psychiatric treatments alone, although psycho-social factors may play a role in the outcome. While the process of gender reassignment does not necessarily require medical supervision, transsexualism is nonetheless a medical condition and transition to the preferred gender role, thereby confirming the individual's core gender identity, may be the only solution.

For many, important though such treatment is, the key moment is not so much the date of any surgery but the date from when they transition permanently to live in their 'acquired gender'. Gender reassignment then begins what can be a long and arduous process in which various surgical interventions can play an important part.

Estimates of the incidence of transsexualism vary but the NHS has estimated that 1 in 4,000 people in the U.K. is or has been receiving treatment for gender dysphoria. However as social attitudes, employment conditions, and legislation are seen to improve in relation to the transsexual person, this may well prove to be an underestimate. The growth of the internet and e-communication allow those living with gender dysphoria, but hitherto living in denial of their true gender identity, to obtain advice, information and support more readily. Increased awareness of treatment available from the medical profession is illustrated by a sharp increase in the number of cases being referred to Gender Identity Clinics.

**Intersex** refers to a number of genetic and hormonal conditions, which lead in some individuals to a visible mixture of male and female sex traits. In others the variation is far less noticeable (including at chromosomal level) and many intersexual people probably live their lives as men or women without any concerns about their gender identity.

Until recently, in cases where a child's genitalia are sexually ambiguous, the medical solution was to surgically refashion the reproductive system and genitalia to conform to one sex or the other at the earliest opportunity believing that this would facilitate the individual gathering a conventional sense of gender. 'Nature winning over nurture' means that some intersex people, in later life, insist that they were assigned the incorrect birth sex. Such people may therefore have to undergo the process of gender reassignment to achieve their correct gender.

**Sexual orientation** is no more determined by transsexualism than by birth as either male or female. Gender identity and sexual orientation are two distinctly different issues and recognised as separate protected characteristics. A transsexual woman is not a gay man who transitions simply to fulfil sexual desires, nor is a transsexual man a lesbian who changes gender because of her sexual orientation. Transgender people in general may identify as gay, lesbian, bisexual or heterosexual – a factor frequently overlooked and an area where assumptions are often mistakenly made.

Transsexual people may say that, until their gender transition is complete, they are unable to foretell their future sexual 'nature'. It may remain the same, it may change. During the process of transition, the issue of sexuality may be of little interest to the person concerned, since it is their gender identity that is uppermost in their mind.

Further a transsexual person may, in previously trying to force him or herself to follow a 'traditional life', have had sexual relations with someone of the opposite anatomical sex. They may describe their libido as having been minimal, the act being little more than 'what was expected of them'. Post reassignment surgery relations with someone of the same 'birth sex' would not therefore necessarily imply bisexuality.

In fighting for their basic human rights, transgender people have traditionally allied with the LGB community. Homophobia and transphobia tend to originate from the same direction and similar problems of harassment and discrimination are encountered. Relatively few in number, transgender people often elected to seek 'safe haven' in the LGB 'world'. Forces have frequently been combined when campaigning for acceptance and equality, although there are those within each group who are concerned over the potential confusion this creates between gender identity and sexual orientation, and the potential to marginalise trans-specific issues.

A key point of variance is that many transsexual people, whilst seeking acceptance and tolerance, do not so much want to 'come out' as 'transsexual' or 'transgender', but to be accepted into the world in their acquired gender. This is the ultimate ambition for many as they set off on the gender reassignment journey.

## 2. COPING

**Gender dysphoria** is hard, often impossible, to diagnose at an early age. Some individuals start to show behavioural indications during childhood, but symptoms of unease with the 'assigned' gender identity are often only apparent to the individuals concerned and may not be understood even by them. If these individuals are able to articulate their unease very clearly, this early recognition may enable treatment to block the hormones that otherwise cause the secondary sex characteristics to develop at puberty. Such people are sometimes termed '*primary transsexual*'.

For many however, their discomfort grows through adolescence and into adulthood. Family and society, in ignorance of their underlying gender identity, relentlessly reinforces gender roles based on physical appearance alone. The level of discomfort varies between individuals. Some may become reconciled to their situation and learn to live with it, with a few maybe taking rare opportunities to cross dress. While the majority of cross dressers do not have gender dysphoria that will lead to transsexualism, some do progress to gender reassignment in their journey of self discovery. En route, they may have struggled to conform, maybe having embarked

on relationships, marriages and parenthood in an attempt to lead 'normal' lives until, in later life, they find it impossible to carry on living in their birth sex role. Such people are sometimes termed '*secondary transsexual*'.

It should be recognised that many "secondary transsexual" people grew up in what for them were effectively the 'Dark Ages', with very limited availability of informed thinking and treatment of their 'condition', which many bore in isolation and confusion, often attempting self-enforced denial of what was in fact their core gender identity. And it is not so long ago that aversion therapy in the form of electric shock treatment was employed by the medical profession as a considered treatment for this 'condition'. A reputed 0% success rate, 30% suicide rate.

The personal discomfort for those attempting to live in the gender assigned at birth is such that it easily leads to great unhappiness, stress and possibly, suicidal feelings. Even when aware of the option of transition and effective medical treatment, thoughts of the potential distress to their family, concern about being able to transition effectively, possible discrimination, harassment and employment problems are all factors in a very complicated equation. In 1981, the Harry Benjamin Institute estimated that 50% of the transsexual population died by their own hands by the age of 30. In 2006, research by Press for Change found 34% of those needing to change gender attempted suicide at least once.

Medical treatment to enable transsexual people to alter their bodies to match their core gender identity is highly successful with up to a 98% success rate. (NHS *Audit of patient satisfaction with transgender services* June 2008) Effectively, '*Je ne regrette rien*'.

### **3. TREATMENT**

**Treatment 'timetables'** in typical male to female (MTF) and female to male (FTM) cases are to be found at Annex C.

The usual first step is a visit to a General Practitioner and referral to a Gender Identity Clinic – NHS funding issues often decree that referral is via an interview of the individual by a local psychiatrist. The Gender Identity Clinic at Charing Cross Hospital in Hammersmith, London is the most commonly known, but regional clinics exist around the U.K., including Leeds, Liverpool, Glasgow, Edinburgh, Newcastle, Nottingham and Sheffield. However, long waiting times for even an initial appointment in some cases and inflexibility in the treatment pathway are often a persuasive factor in individuals electing to seek private treatment.

Over a succession of appointments, usually involving more than one clinical psychiatrist, the individual's gender development, 'history' and circumstances will be extensively scrutinised. Due to the far reaching and irreversible results of hormonal and/or surgical transformational measures, the NHS insist upon a careful and accurate diagnosis. If a diagnosis of gender dysphoria is made and the individual has not yet transitioned, they are now expected to do so to start the Real Life Experience (RLE), in which the individual lives 'full-time' into the acquired gender.

Alongside the RLE, the individual may undertake a range of treatments in order to achieve their physical gender reassignment, more details of which are given in **Part III 13**.

# Part II: Key Legislation

## BACKGROUND

Before 1999, no UK legislation protected transsexual people from discrimination or harassment. Gender reassignment is now recognised as a protected characteristic in the Equality Act 2010. The following provides a synopsis of how this has been achieved.

### 1. 1996 *P v (1) S and (2) Cornwall County Council* (1996 IRLR 347 (ECJ))

P was dismissed from her employment as an educational establishment general manager by Cornwall County Council. Recruited as a man, she informed her employer that she intended to undergo gender reassignment. However, her complaint of sex discrimination to an industrial tribunal in 1993 was not upheld, because, although the tribunal found that P had been dismissed because of her transsexualism (not for redundancy as claimed by the employer), it was considered that P would have been dismissed for undergoing GRS whether male or female and the Sex Discrimination Act 1975 (SDA) only prohibited adverse treatment of men or women because they belong to one sex or the other, not because they are transsexual people. Referred to as the 'equality of misery' rules, as such the SDA was of no benefit to transsexual people and in effect was often used to justify the poor treatment they received.

On 30<sup>th</sup> April 1996 however the European Court of Justice ruled that the European Equal Treatment Directive stipulated that there should be "no discrimination whatsoever on grounds of sex" and that this Directive must apply to discrimination arising from gender reassignment, and not confined simply to a comparison of treatment of men and women. It was therefore not legal to discriminate against a person on the grounds of their having undergone, or intending to undergo gender reassignment.

### 2. 1997 *Chessington World of Adventure Ltd v Reed* (1997 IRLR 556 (EAT))

Ms Reed was subjected to a catalogue of violence, abuse and harassment from work colleagues after announcing her change of gender identity and was dismissed by her employer. The Employment Appeals Tribunal ruled that discrimination arising from reasons related to gender reassignment breaches the Sex Discrimination Act, in that the SDA could be interpreted in accordance with the ECJ ruling in the case of *P v S and Cornwall County Council*. Discrimination stemming from harassment and abuse by work colleagues (which includes derogatory remarks, jokes, innuendo, gossip, threats of disclosure of the individual's transsexualism, expressing or acting on stereotypical assumptions, exclusion from facilities, exclusion from social activity and display of/or electronic transmission of offensive materials) was thereby unlawful.

### 3. 1999 & 2008 Amendments to Sex Discrimination Act 1975

The Sex Discrimination Act 1975 made it unlawful to discriminate on the grounds of sex in employment, education and the provision of housing, goods, facilities and

services. The Sex Discrimination (Gender Reassignment) Regulations 1999 at last extended the Act to cover those intending to undergo, undergoing or who have already undergone gender reassignment, but only in the areas of employment and vocational training until it was extended by new Regulations in 2008 to cover the provision of goods, facilities and services.

#### **4. 2002 *Goodwin & I v UK Government* ((2002) 35 EHRR 447)**

This case reflected the Court's view that UK law was in breach of its Convention obligations under Article 8 (the right to respect for private life) and Article 12 (the right to marry) in not providing transsexual people recognition in their acquired gender. In very simple terms it broadened the definition of sex to include determination also by gender reassignment. And further, crucially, it said that the UK government could no longer claim that it had a "margin of appreciation" as to how reform in this sensitive area was to be achieved – except as to the means of implementing the Court's decision.

Goodwin was subsequently reinforced with regard to marriage by the declaration of the House of Lords in 2003 in the 'Bellinger' case that the relevant section of the Matrimonial Causes Act was incompatible with Article 12 (the right to marry) of the European Convention, leading to the introduction by the UK government of a legislative bill that became the Gender Recognition Act 2004 (see 8 below). It was therefore hailed as a landmark decision.

The Court noted in Goodwin that although there may be practical difficulties with the above principle, they were not insuperable, giving a clear indication of the degree of accommodation of transsexual people's needs expected from, among others, employers:

"91. The Court does not underestimate the difficulties posed or the important repercussions which any major change in the system will inevitably have, not only in the field of birth registration, but also in the areas of access to records, family law, affiliation, inheritance, criminal justice, employment, social security and insurance. However, as is made clear by the report of the Interdepartmental Working Group, these problems are far from insuperable, to the extent that the Working Group felt able to propose as one of the options full legal recognition of the new gender, subject to certain criteria and procedures. ... No concrete or substantial hardship or detriment to the public interest has indeed been demonstrated as likely to flow from any change to the status of transsexuals and, as regards other possible consequences, the Court considers that society may reasonably be expected to tolerate a certain inconvenience to enable individuals to live in dignity and worth in accordance with the sexual identity chosen by them at great personal cost."

#### **5. 2004 *A v The Chief Constable of West. Yorkshire Police* ([2004] 2 All ER 145)**

'A', a transsexual woman, had successfully applied for employment as a police constable with the West Yorkshire Constabulary, but was subsequently told that the Force would not employ her because she would not be able to undertake the full duties of a constable; specifically, searches of people in custody by officers of the same sex - section 54(9) of PACE – in effect, a "Genuine Occupational Qualification". The House of Lords however, rejected the Force's argument on the basis of the 1996 ECJ ruling re *P v S & Cornwall County Council* (see 1 above) that a transsexual person be regarded as having the sexual identity of the gender to which or she has been assigned. Further, as the Gender Recognition Act was then with Parliament, the Lords noted that, in policy terms, the view had been taken that transsexual people belong to the gender in which they live, with the Gender Recognition Act being used to decide any borderline cases.

## 6. Later cases

In the case of *Richards v the Secretary of State for Works & Pensions*, Ms Richards attained the age of 60 in 2002 - before the implementation of the Gender Recognition Act and was thereby unable to obtain a Gender Recognition Certificate at the time. She was advised by the Pensions Agency that she would need to wait until aged 65 before receiving a pension – the qualification age for men. The ECJ ruled that she had been discriminated against.

The case of *K.B. v NHS Pensions Agency* this confirmed that any national legislation, or workplace practice, which affords pay related benefits based upon sex or marital status, that results in a transsexual person who is permanently living in their new gender role being denied benefits is, in principle, incompatible with Article 141 EC – which states, “Each Member State shall ensure that the principle of equal pay for male and female workers for equal work or work of equal value is applied.” The case specifically confirmed the pension entitlement of a partner of a person who is going in due course to be entitled to a pension where the partner, who has reassigned gender, will be entitled to the surviving widow's or widower's pension.

## CURRENT LEGISLATION

### 7. Equality Act 2010

The Equality Act 2010 consolidates the many discrimination acts and regulations established over the previous decades. Gender reassignment is one of the nine distinct protected characteristics covered and the provisions made previously under the Sex Discrimination Act on gender reassignment are strengthened.

Section 7 states a person has the protected characteristic of gender reassignment if the person is proposing to undergo, is undergoing or has undergone a process (or part of a process) for the purpose of reassigning the person's sex by changing the physiological or other attributes of sex. Such a person is referred to under the act as a transsexual person and it is unlawful to discriminate against such a person in work and in the provision of goods, facilities, services and public functions. It is not necessary to be under medical supervision and those perceived as transsexual people along with those associated with transsexual people such as family, friends and colleagues are also protected from unlawful treatment.

In general, discrimination arises when a transsexual individual is treated less favourably than another because of their gender reassignment. For example, failure to deal with a transsexual woman in the same manner as other women would be discrimination; even if she is treated in the same manner, discrimination may still arise if that treatment puts her at a particular disadvantage because of her gender reassignment.

Section 16 confirms that absence from work because of gender reassignment cannot be treated less favourably than absence because of sickness or injury and, importantly, absence for any other reason if not unreasonable to do so. This allows employers to treat gender reassignment absence differently from, but no less favourably than, sickness absence and can remove substantial disadvantage that would otherwise be incurred by transsexual people.

Section 149, the public sector equality duty, requires public authorities to have due regard to the need to eliminate discrimination, harassment and victimisation against transsexual people, to advance equality of opportunity and foster good relations between transsexual people and others. Under the specific duty, public authorities are obliged to publish information used to arrive at objectives supporting trans equality, and to report outcomes that achieve trans equality.

Schedule 9 “Occupational Requirements” does provide for exceptions where the requirement not to be a transsexual person is “a proportionate means of achieving a legitimate aim”. The onus is on the employer to prove such an exception applies. In general, a requirement that restricts an occupation to persons of a particular sex should also be open to transsexual persons of that acquired gender. The Codes of Practice published by the Equality and Human Rights Commission are clear that such exceptions will be rare and on a case by case basis.

## 8. Gender Recognition Act 2004

The Gender Recognition Act provides transsexual people with legal recognition in their ‘acquired’ gender. Legal recognition follows from the issue of a full Gender Recognition Certificate (GRC) in cases where the Gender Recognition Panel (a body made up of judicially trained lawyers and doctors) is satisfied that the applicant:

- a) has, or has had, gender dysphoria;
- b) has lived in the acquired gender throughout the preceding two years; and
- c) intends to continue to live in the acquired gender until death.

The applicant also needs to be single for a ‘full’, rather than interim, certificate to be issued.

It should be noted that surgical intervention/gender reassignment surgery is not a requirement for the issue of a GRC.

Legal recognition has the effect that, for example, a male-to-female transsexual person is recognised as a woman **for all purposes – in law**. Upon the issue of a full GRC, the person assumes all legal rights of their new gender, including that to marry someone of the opposite gender to their acquired gender, and to retire and receive state pension at the age appropriate to the acquired gender. The effect is just as if they had always been of the acquired gender. A person whose birth was registered in the United Kingdom is entitled to a new birth certificate reflecting the acquired gender. However, **not all transsexual people can or do obtain gender recognition**. For example, those wishing to continue in their pre-transition marriages cannot obtain a GRC or new birth certificate and are denied legal recognition, as are people still within the two year qualifying period, so the possession of a GRC should never be used to determine how a transsexual person is treated, except in those specific instances where the legal sex of the individual is paramount.

Section 13 of the Gender Recognition Act deals with those social security benefits and pensions in which sex discrimination is still being phased out, by ensuring that transsexual people with recognition are treated according to their acquired gender insofar as certain survivor’s benefits are concerned: - Widowed Mother’s Allowance, Widow’s Pension, Widowed Parent’s Allowance, Incapacity Benefit and Category A retirement pensions

Section 22 re-enforces the right to privacy for the transsexual person in that it is an offence for a person to disclose information he has acquired in an official capacity about a person’s application for a GRC or about the gender history of a successful applicant – this is ‘protected information’. The term “official capacity” is set out to include a person’s functions as a member of the civil service, a constable, an employer or prospective employer, or a person acting in the course of business or the supply of professional services.

Once a transsexual person has a GRC, any disclosure that the person was born a different gender to that in which they now live, is a criminal offence. S22(4)(b) permits disclosure where the individual “has agreed to disclosure of the information” and, if such consent is forthcoming, can facilitate performance of an HR process. Note the

wider privacy provisions and best practice applicable to ALL transsexual people under (9) below.

The Act contains a series of exceptions, as listed at 22(4), as well as provision for the Secretary of State to add to them 'by order', that allow 'protected information' to be disclosed for valid public policy reasons, such as for the purpose of prevention or investigation of crime.

## **9. Data Protection Act (1998) & Human Rights Act (1998)**

For the purposes of the Data Protection Act, gender reassignment and any information appertaining to an individual's gender history would constitute 'sensitive data' which can only be processed for certain specified reasons, as set out in the Act. Furthermore, Article 8 of the Human Rights Act gives everyone, including transgender people, the right to privacy and family life.

It is the antithesis of the intentions of the privacy provision included in the Gender Recognition Act to ask or expect an individual to evidence they have gender recognition. Given the wider privacy protection applicable to all, it is best practice to assume any transsexual person has gender recognition and treat them accordingly. This also prevents gender recognition becoming an inappropriate demarcation when the provisions of the Equality Act apply to all transsexual people irrespective of whether they have gender recognition.



# Part III: Issues

## 1. PRIVACY

Living our lives with labels attached is something with which we all have to contend. 'Freda Bassett, Deputy Director' or 'Matthew Ansun, father of two' are labels of no contentious consequence in terms of gender identity. 'John Smith, transsexual' is a different issue. While transsexual people are not ashamed of their medical history and status, it is not the first and foremost way by which most wish to be regarded.

Just like other employees, those whose change of gender is known within their immediate circle, nevertheless have a right to be spared intrusive questions and public speculation into their lives and medical status. Unfortunately the very nature of gender reassignment can attract massive attention for a variety of reasons, not least its rarity. Yet for the transsexual person, it is their life, one made all the more demanding if up for scrutiny, judgement and comment. A change of gender is not a fanciful whim or lifestyle choice, but a response to medical need.

Respect for privacy and a freedom from workplace gossip, unnecessarily broadcasting their personal circumstances, is a reasonable consideration. Most transsexual people wish to keep their transsexual status as private as possible, even though others are willing to discuss it either confidentially or openly. It is important that neither management nor colleagues breach the personal privacy of employees, recognising that the right to disclose or discuss their medical history is the prerogative of the individual. Indeed such disclosure may constitute an offence under the Gender Recognition Act. When a staff member has changed gender, it is essential that other persons respect that this is the case. Reference to a person by their previous name or gender will reveal the status of the person and constitutes a breach of confidentiality and is, potentially, harassment.

### **'Stealth'**

Many transsexual persons are not known to be such in their workplace having changed gender before commencing an employment. Although 'unseen' might be a more intuitive description, the term 'stealth' is sometimes applied to such people; their actions are not born out of a wish to deceive but from a natural and understandable decision to maximise the opportunity of privacy and facilitate acceptance in their acquired gender. This is the fulfilment of why they have undergone the arduous process of gender reassignment. Any suggestion that such a person is not being 'open and honest' is therefore totally unreasonable. For the individual concerned it substitutes living on a 'knife-edge' of disclosure for life in the 'goldfish bowl'.

### **Media Interest**

Instances of gender reassignment can attract attention from national and local press. When coupled with employment in the public sector, that interest can be intensified. Any Press Office response must have the consent of the person concerned and centre on a commitment to the Equal Opportunities Policy and support for the individual. In the interest of confidentiality, the employee should not be named. If the press are already aware of the transsexual person's identity then it is key that any response is in accordance with the individual's wishes. Staff should be advised to maintain strict confidentiality and not breach an individual's privacy or provide information to the media. Where an employee is harassed by the media, protection should be offered and consideration given to a complaint to the Press Complaints Commission. Trans Media Watch monitors coverage of transgender issues in the media and can be a useful source of information and advice.

## 2. DISCLOSURE

### **Confidentiality**

An employee's gender history is clearly part of the individual's private medical and personal history over which the employer must treat any records as sensitive information. Effectively this means that the same duty of care and confidentiality level must be maintained in respect of the gender history of employees irrespective of possession of a GRC, the sole difference being specific contravention of the Gender Recognition Act itself for those with recognition.

As set out above (*part II 8*), Section 22 Gender Recognition Act 2004 created an offence where a person discloses 'protected information', information acquired in an official capacity (e.g. in his functions as a civil servant) about a person's application for a GRC or the gender history of a GRC holder. For example, should someone working in HR with access to the employee's personal file, disclose the fact that the person was born a different gender, then, unless he has prior consent of the person concerned a criminal offence has been committed, as well as a major breach of employer/employee confidentiality. This is a 'strict liability' offence which means no room for pleading 'reasonableness' – no "only doing my job". Note that 'need to know' is not sufficient reason to disclose. A transsexual person (with or without a GRC) is not obliged to inform their employer of their gender change, although some may choose to, so their gender history is clearly established as 'protected information'. Such information cannot be shared by that person with colleagues except within the specified exemptions to section 22, such as the individual's explicit consent. (See **Part II 8**)

### **Best Practice**

It is not possible to hold a GRC until two years 'post-transition' and even then valid reasons exist for some transsexual people not to apply for legal recognition in their acquired gender; for instance the individual may be married and not prepared to contemplate annulment of their marriage. Therefore, in such situations, it is good practice and in keeping with the spirit of the law to regard all those who have changed gender as if a GRC was held, from the date of transition onwards. Any information relating to an individual's gender reassignment should be destroyed unless there is an essential reason for keeping it. If such reasons can be evidenced, the documents should be secured to restrict access to authorised personnel and must not be passed to any third party without the specific consent of the transsexual member of staff.

## 3. PREVIOUS NAMES/JOB APPLICATIONS/INTERVIEWS/REFERENCES

When a transsexual person applies for a job, a potential employer may ask for disclosure of former names and employers at the application stage. To do so will disclose the individual's transsexual status, compromise their right to privacy and potentially prejudice their recruitment chances.

You should therefore be prepared to carry out checks requiring former names, such as security and credit checks or obtaining references, at the end of the recruitment process.

If the individual has already informed previous employers of the need to amend their records showing new name and acquired gender only, then details of former employers can be openly given. It may be however that references from previous employers or evidence of educational qualifications will disclose a previous name and thereby previous gender identity. In such cases total confidentiality must be respected and appropriate measures taken to ensure it.

## **Recruitment/Interviews**

In order to actively promote equality of opportunity for transsexual people consideration should be given on job advertisements that applications from transsexual persons are welcomed. Recruitment agencies should be reminded of the requirements of the Equality Act public sector duty as they relate to transsexual people.

It should not be expected that applicants and interviewees for employment necessarily wish to disclose their gender history. It is neither a relevant criterion for selection for a post, nor a question that should be asked or alluded to during the recruitment or interview process. As gender reassignment is a health matter, any request for such matter would automatically place the onus on the recruiting organisation to prove that no discrimination has taken place, should the individual fail to obtain the post.

If disclosure is voluntarily made, the information should be held in strictest confidence and not be made available to other staff. Discussion with a successful applicant as to who should be so informed will be relevant. Disclosure by the job applicant is not in itself a reason for not offering employment and non-disclosure or subsequent disclosure is not grounds for dismissal.

The actual process of recruitment and selection should not be affected by an individual's gender and gender history has no bearing either. To allow influence otherwise would be unlawful. (In *Sheffield vs. Air Foyle Charter Airlines Ltd (1998)* an applicant was not called for interview because of gender reassignment. She was awarded £70,000 compensation).

## **Security**

If an employer believes that they have just cause requiring specific disclosure of information protected by section 22 of the Gender Recognition Act, perhaps for security vetting purposes, then it must be made explicitly clear on the application form – in the same way that voluntary criminal record disclosure sections in applications for work with vulnerable adults need to explicitly point out the reasons why applicants cannot claim a right to leave out 'spent' convictions, otherwise protected by the Rehabilitation of Offenders Act.

It is then vital that the employer realises its obligation to then control 'protected information' obtained in this way and not be blind to the potential of collateral damage created by open disclosure.

An equal opportunities employer should recognise that certain information may be highly private and potentially prejudicial to an individual's employment prospects or later safety if openly disclosed. Provision can then be made for transsexual people to omit former name details from the form they submit on the understanding that the applicant simultaneously conveys that information, and details which will allow it to be cross-checked, direct to a secure processing address. This is similar to the process put in place by the Criminal Records Bureau in relation to criminal records checks.

If CRB checks are part of your overall recruitment process, you should not hand these out for completion on the day of any interview. To do so would deny any transsexual applicant the opportunity to take advantage of the CRB's transgender application process'.

## **Voluntary Disclosure**

The 'sexual person should be aware that it may be advisable to inform certain people in confidence of their status. For example, unless a GRC is held, you may need to contact your pension provider to inform them of their legal (birth) sex if this is relevant for pension purposes.

## **4. INFORMING MANAGEMENT & COLLEAGUES**

### **Pre-Employment Transition**

The transsexual person who changes gender before entering employment is under no obligation to inform either management or colleagues of their gender reassignment. However, should such a person voluntarily disclose their change of gender at recruitment stage or perhaps to HR, this information must not be disclosed further without the individual's specific authorisation. The holder of a GRC, may choose to confidentially notify HR of their possession of such, but best practice is to assume all transsexual employees may have gender recognition.

### **Transition after Entering Employment**

The individual who needs to transition having already entered employment has no such option of 'anonymity' if choosing to do so whilst remaining in the same office workplace. The Real Life Experience is a full-time change of gender role so attendance at work in the new role is necessary. If a transsexual person has informed their employer of their intention to undergo gender reassignment, they are fully protected by the Equality Act.

The individual may well have kept their core gender identity secret for many years and, while convinced of their need for transition, may be daunted by the seemingly insurmountable obstacles faced. Not least of the problems is the fact that, while their gender identity has been a factor to them for most of their life, the announcement of the impending change will almost certainly come as a surprise, and perhaps shock, to work colleagues, particularly long term ones. Simultaneously the individual will probably be confronting issues arising within their own family from the intended transition and may be faced with anger and rejection on the home front.

Work colleagues, since they are not as closely involved or affected, will hopefully not feel so personally challenged and find it easier to accommodate the change. However gender reassignment is a subject about which some individuals hold hostile views based on personal conviction, out of ignorance or, sometimes, prejudice. Awareness policies and diversity training, designed with public sector equality duty obligations in mind, coupled with changing modern day attitudes, are hopefully contributing to a more ready acceptance of a transsexual colleague's right to equal respect in the workplace.

Transition at work, when realistically faced up to and sensitively handled, should result in improved contentment of the transsexual person on taking a massive step towards realising their true gender identity through gender reassignment.

### **Redeployment**

An employee may prefer redeployment and in the instance of a large employer, this option may be relatively easy to accommodate, especially if the employee is prepared for a change of environment. However an employee cannot be obliged to accept redeployment as a condition of transition against their wishes. At a time when so many factors within the individual's life are in a state of flux, it may be that the employee will prefer the prospect of transition in-situ in that the security of familiar work amongst familiar surroundings may be easier to contend with at what is potentially a traumatic time. (see 12 below re performance-related redeployment)

### **Management / Staff Member Contact**

The timing of the individual's initial approach to management is a matter for the individual to decide, often guided by the progress of medical treatment. An individual may provide a letter from their gender identity clinic or other medical advisor to support their intention. Conversely an employee may request a letter confirming they have discussed their intention with their employer, or to confirm their attendance at work in the acquired gender, as evidence requested by the clinic. The employer should provide this as appropriate.

The initial point of contact will vary according to the nature of the workplace and preference of the individual but could be an immediate line manager, a senior manager, HR, equality and diversity officer, a union rep, a diversity network or a colleague. All must maintain confidentiality except as otherwise agreed by the individual. It is vital to assure that the employer will be supportive, and that it does not tolerate discrimination against, or harassment of, transsexual employees. It is likely that the manager has not encountered this circumstance before and that the transsexual person may be isolated from any other transsexual employees. Assistance for both is available from **a:gender** (the Civil Service support network which supports those changing gender in the workplace) and possibly from a departmental trans network or LGB & T network which has requisite experience in issues relating to 'transsexual people in the workplace'. Additionally, **a:gender** can reduce feelings of isolation via direct advice from and contact with other transsexual and transgender staff on a personal basis and at confidential Members' meeting. A manager should facilitate a transsexual person's wish to engage with a:gender in such ways in order to promote the individual's well being. A logical first step is to agree a main point of contact who will manage the transition from the employer's perspective, possibly a senior local manager, to avoid repeated explanation of the same issues by the transsexual employee and to ensure co-ordination of action taken.

Although some staff about to transition will already be well informed of their rights and responsibilities in the workplace, not all will be. As well as a:gender, there are other organisations to provide such information such as those listed in Annex G. The Equality and Human Rights Commission (EHRC) also publish useful guidance for both employees and employers.

### **Agreeing a Process**

Successful support and management of an employee's reassignment depends crucially on taking account of the individual's views on how to proceed. Sensitive and considered discussions can identify and resolve potential areas of difficulty and conflict before they arise. It is therefore important at an early stage to 'agree a process'. Key elements include: -

- the anticipated point in time of change of name, personal details and social gender;
- whether the employee wishes to stay in their current post or be redeployed, on a temporary or permanent basis;
- an anticipation of time off for medical appointments, treatments and surgical procedures and the handling of such absence;
- amendments to records and systems to take account of the change of personal details;
- when and how colleagues should be informed - the employee should decide who performs this task - and whether any training in gender identity issues is needed;
- how to handle any harassment or hostile reaction or media interest.

Not all details will be known at the outset, particularly the nature and progress of medical treatment. A sample gender transition template is provided at Annex B (ii), for the use of the individual undergoing gender reassignment, in conjunction with their manager if they so wish.

The use of this checklist is optional, and the level of detail entered is purely a matter for the individual. The individual and manager may use it as a reminder of the possible steps which gender reassignment may take, and may fill it in together as the individual's plans for gender reassignment emerge. Managers should not impose the use of the checklist on an individual nor use it to dictate the pace of the gender reassignment process. Under no circumstances should this information be passed to

anyone else without the express permission of the individual undergoing gender reassignment.

### **Informing Colleagues**

Agreement between management and the individual is important before communication of impending gender transition. The approach taken will depend on the individual and be appropriate to the size and structure of the workplace. For example, a shift working environment may dictate repeated communication. Face to face communication works for some in a contained work team and can earn considerable respect, but email is more suitable for larger organisations. It also opens up the possibility for gestures of support by return email, which can give a welcome boost to the confidence of the individual at a timely moment. Annex D contains an example used by an a:gender Member.

However, it may not be necessary to inform employees who have no direct contact with the individual, though it should be borne in mind that gossip travels fast and wide, so it may be preferable to include such people in order to avoid ill-informed comment. If the information is conveyed by management, it must be at a time agreed by the individual, and if by the individual, then management will need to know when and how the disclosure is to take place, so that appropriate support can be co-ordinated.

**a:gender** can provide support by transsexual co-employees in the disclosure process or thereafter, in general awareness raising or providing explanations of relevant issues, as well as providing personal assistance to the transsexual person. Whichever approach is adopted managers will have to ensure that sufficient information is available to help the workforce understand what is involved and what are their responsibilities, as well as how colleagues can help and support the person concerned. Sufficient details should be provided to explain the facts in an appropriate style and at a suitable level; there is no need for too much personal or graphic detail. Staff should be given the opportunity to discuss any concerns with management or direct with the individual concerned, if the latter is happy to do so.

Overall, a balance needs to be struck between those who need to know or should know and unnecessarily requiring the transsexual person to feel they have become public property, repeatedly needing to account for themselves and their action.

### **Time of transition**

At the point of transition, some transsexual people prefer to take a brief break from to prepare to return to work in the acquired gender. Such opportunity should be taken, if possible, to ensure workplace records and IT systems are appropriately amended. If no break is taken, a new pass should be prepared in advance of transition if possible, and all records amended at transition or as soon as possible thereafter. (See 5 below.)

Some advance thought should be given to the first day at work in the acquired gender, and this should be discussed with the individual. Some will be happy to take the initiative and others shy to do so, so managers will need to ensure the transsexual person is not ignored or excluded. Being accompanied on arrival at work by a particular friend amongst colleagues may make things easier. Much will depend on the preparation and advance explanations undertaken. People's reactions cannot be pre-ordained, so managers will need to 'play it by ear' to monitor how things are going. It is very important that the day of transition gives the transsexual person a feeling of respect and confidence in their future in the workplace

### **And afterwards**

Monitoring the environment in which the recently transitioned transsexual staff member operates is obviously good managerial practice and it is important to nip issues in the bud. The individual may be reluctant to mention a problem encountered, perhaps through feeling obligated for assistance so far given or maybe feeling compelled to sort it themselves. Not all individuals possess sufficient self confidence

and interpersonal skills to challenge adversity alone at this point, although those who do will probably reap the benefit of being seen to stand up for themselves. The first evidence of such problems could therefore be in the transsexual person, as a reaction to others' unacceptable behaviour.

An occasional check in the early days just to see how things are going may identify any issue, including any overlooked in the pre-transition preparation. The manager who is alert to workplace reaction and not ignorant of gossip and barbed comments concerning the transsexual person should find it easier to deal with the situation than rather than await the development of bullying and harassment. (See **Part III 7**)

Changing gender role is not an overnight occurrence, but a process. For some, having been brought up and conditioned according to 'birth sex, behaviour regarded as untypical of their acquired gender might be the subject of adverse comment by others and a cause of their own frustration, stress and anger. This is likely to lessen in time, but manager need to be aware of this factor.

## **5. RECORD CHANGING / RETENTION / ACCESS & MONITORING**

On entering employment, a transsexual person may have disclosed information relating to previous name and gender (*in circumstances outlined in Part III 3 above*) Procedures pertinent to the retention of and access to personnel records should therefore be reviewed in order to ensure that they are compliant with privacy legislation, such as the Data Protection Act and the Gender Recognition Act.

It is inevitable within most organisations that records and references relating to an individual staff member are held in a myriad of locations and possibly at an external shared service centre. Therefore in circumstances where a staff member has changed gender after entering employment, there are many potential instances where previous name or gender may unnecessarily be revealed. Failure to update and maintain records to reflect the individual's transition is frequent cause of distress to transsexual employees when encountering instances of their previous name and/or gender. The employee may have to repeatedly explain themselves, and other staff are unnecessarily reminded, or perhaps newly informed, of the change of gender.

Neglect can therefore result in unlawful disclosure of, and extreme anxiety to transsexual employees, so all possible steps should be taken to guard against this from transition onwards. It is safest to treat all such information as 'protected information' under the terms of the Gender Recognition Act, whether or not it is in fact, not least because the public sector equality duty conveys a duty to take measures that ensure confidentiality in respect of transsexual staff.

After transition, any new records should refer only to the new name and acquired gender, while records pre-dating transition must be updated. Wherever possible, delete details of previous name and gender; it would be discriminatory not to do so unless their retention is justified and proportionate. The pension provider, for example, may need to do so (see **Part III 6**). Where retention can be properly justified, access to these records must be restricted to staff who require such information to perform their specific official duties. 'Need to know' is insufficient reason to disclose 'protected information' without the express and specific consent of the individual for a particular purpose. Breaches of confidentiality can have a serious impact on a transsexual employee and must be viewed seriously as a potential disciplinary matter.

The best process for a full and effective record change from the time of transition may vary between and within organisations, so it is recommended that the individual and their 'main point of contact', (see **Part III 4 above**) together compile a comprehensive list of records that will require amendment as part of their transition

planning. The list will include HR, pay and pension records, all IT systems to which the individual has access and IT address lists with reference to the person, all relevant staff directories including telephone listings, letter templates, name badges, security passes and warrants. Prioritise requests for record change and synchronization, e.g. by stating a deadline, to avoid a situation where the same employee is shown simultaneously under different identities and ensure post-transition contact and correspondence takes place using the new.

For HR, pay and pension records, the appointment of nominated 'Gender Reassignment Officers' to manage and coordinate the change process and avoid situations where a transsexual person is repeatedly required to account for themselves.

Pension records may need to retain a note of birth sex (see **Part III 6**), but this should not prevent correspondence showing the acquired gender. Continued use of the previous gender and name is likely to be discriminatory.

Changes to email accounts and IT systems must be dealt with by IT teams in comprehensive fashion in order to avoid the revelation of previous identity in email properties or other areas where aspects of the user's ID is displayed. If possible, the individual's ID/employee number should be changed to avoid this being used to track down their new identity.

Replacement of security passes will almost invariably include the provision of a new photograph of the holder in their acquired gender. Where a pass is issued by an outsourced provider, local management may be able to obtain privacy by returning the old pass as no longer needed and commissioning a pass in the acquired gender as if for a new employee.

At some point subsequent to transition, the transsexual staff member may take gender reassignment related absence. Absolute confidentiality must be applied to the retention of and access to records relating to an employee's gender identity/reassignment treatment (see **Part III 12 below**).

### **Voluntary Disclosure**

Voluntary disclosure may be made by a transsexual staff member when, for example, responding to an equal opportunities survey or seeking management support. Strict confidentiality must be observed by the person to whom such disclosure is made, and the extent of any consent given should be stipulated by the individual.

### **References**

References provided for someone moving to new employment must be in the name to be used in the new job with no reference to the former name.

### **Staff Surveys/Monitoring**

There is **no legal obligation to monitor the numbers of transsexual employees**. The public sector duty obligations in respect of gender reassignment can be better met in other ways. **a:gender** have produced a paper "Evidence gathering in respect of Transsexual People and Issues" suggesting departments and agencies should:

- not carry out 'headcount' monitoring of transsexual people (and the wider category of transgender people) simply to report how many trans employers or service users they might have. Such a question will continue to be omitted from the core questionnaire of the Civil Service People Survey and should not be included as a supplementary question in any extra survey conducted within your own organisation.
- only ask individuals to declare their trans status indirectly where it is considered the cause of an individual's treatment, and therefore a good reason for asking such questions. For example, where asking if an individual

has suffered 'bullying and harassment', you should include 'gender reassignment/perceived gender' as one of the optional factors listed as a potential cause of the bullying or harassment

- monitor your progress in trans equality and in meeting your public sector duty by:
  - gathering evidence of trans needs of your organisation in order to determine and report your objectives
  - reporting outcomes achieved in pursuit of your objectives
  - gathering evidence on the performance of those outcomes, in order to generate further or revised objectives as appropriate.

This protects those people who have undergone transition, maybe surgery, maybe obtained legal recognition in their acquired gender, who no longer regard themselves as transsexual but identify only as either male or as female. Such people do not want to be reminded of their gender history and are the most likely to eschew 'Headcount' monitoring. Such monitoring is also unlikely to attract those fearful of their need for reassignment or those affected by gender reassignment discrimination by association. Except in targeted surveys, statistics for this protected characteristic are unlikely to be significant or capable of sensible interpretation in the way headcount data can illustrate trends and comparisons when examining other protected characteristics.

Other factors that legislate against transsexual people self disclosing on monitoring/survey forms include a natural reluctance to unnecessarily share personal and medical details, exhortations to be 'open and honest' when they simply wish to pursue their life and career privately in their true gender and the risk of disclosure of their birth gender to others and a consequent change in attitude. Some people, even without exhibiting the slightest degree of conscious prejudice, appear to be unable to see transsexual people other than through the 'filter' of their gender change.

Where monitoring and surveys have been attempted, confusion and misuse of terminology, treating "transgender" as a third gender, and the unacceptable inclusion of 'transsexual' as a category of sexual orientation have abounded. Resulting data has proved impossible to analyse in any meaningful way.

Further detail can be obtained by contacting a:gender.

## **6. PENSIONS**

### **State Pensions & National Insurance Contributions**

The process of equalising the state pension age of men and women and the age limit for the payment of employee's National Insurance Contributions began in April 2010 and will be achieved by 2020 at the latest. Change of gender does not affect these age limits for those born after 5 April 1955, but those born earlier should consult their pension provider or HM Revenue & Customs for advice. For transsexual women who remain in a marriage pre-dating transition, it is important that your pension provider is aware of your situation in order to correctly calculate your wife's survivorship rights to your pension should you pre-decease her. Your pension provider can advise you of the circumstances in which they need to know if you obtain gender recognition and of any changes arising since this guidance was prepared. Organisations should arrange named contacts to ensure that transsexual staff can retain privacy in relation to their pension arrangements and enquiries.

It is the responsibility of the individual member of the Principal Civil Service Pension to contact their pension administrator and inform them of their gender transition, the name and title by which they wish to be known, of any change in their marriage or

civil partnership status and when gender recognition is obtained. The member's pension calculation and any subsequent claim to a survivor's pension can then be correctly calculated by the Civil Service Pensions administrators.

Failure to notify such information may result in pension accounts being wrongly calculated and the possibility of members or their survivor being distressed by resulting inaccuracies to their data

## **7. RELATIONS WITH COLLEAGUES / HARASSMENT / DISCIPLINE**

### **Harassment**

Bullying and harassment are common features in the lives of transsexual people but this does not in any way make them remotely acceptable. The Equality Act 2010 affords legal protection to transsexual staff from overt harassment and bullying. Further, the public sector duty requires public authorities to ensure their policies adequately cover employees who are proposing to undergo, are undergoing or have undergone gender reassignment against discrimination, harassment and victimisation. Due regard must be given to advancing equality and fostering good relations between transsexual people and others when considering policy development, procedures and staff training in this area. It is important that policies in this area protect not just transsexual people from harassment, but all transgender people and all other employees, in order to meet the wider obligations to protect those perceived as transsexual, and those who associate with transsexual colleagues.

Working conditions can still arise which create a difficult atmosphere which can be combated by well thought out and established diversity awareness training and procedures. Such measures can create a workforce better *aware* of the nature and needs of transsexual people and engender acceptance of the transsexual colleague, but must avoid making the transsexual individual feel "on view" or singled out among their colleagues.

The transsexual employee should not expect overnight accommodation of their change of gender, as this can take time and effort. Transsexual people can be acutely sensitive to any failure to respect their change of gender but should be careful not to mistake a confused reaction for a hostile one. Most colleagues need a little time to adjust and accept a colleague in their acquired gender. Where carelessly addressed in a former name or gender, a private explanation of how such unwelcome reminders to an unwanted past is all that is needed to help the colleague adjust. Persistent or deliberate lapses, particularly when done in the presence of those unaware of the individual's gender reassignment or instances of transphobic attitudes may require management intervention, anti-harassment or disciplinary measures, together with management support of the transsexual person. A transsexual employee has the same right as everyone else to work in an environment free from harassment and/or behaviour that creates feelings of unease or distress, and a well prepared and smooth change of gender role at work will hopefully prevent harassment.

Commenting on cases of harassment/discrimination involving transsexual women in 2002, Julie Mellor, Chair of the Equal Opportunities Commission, stated "*This case highlights the need for employers to ensure that they treat all their staff fairly including transsexuals. If problems arise, it's important that a company has proper policies which are laid out and implemented so that everyone knows that harassment of any kind will not be tolerated*" and "*If an employer fails to handle complaints of harassment of any kind properly, there is a real risk that they will end up losing valued members of staff with the skills their business needs. Having a proper grievance procedure in place means people know that any complaint will be taken seriously and that they won't be victimised because of their complaint. Employers need to cultivate a working environment in which all employees understand that*

*harassment of any kind will not be tolerated.*” This is more pertinent than ever with the advent of the Equality Act public sector duty so think about including specific trans examples in your “Dignity at Work” policies and guidance and in any training.

Examples of harassment by transgender people may include a range of hostile or offensive acts or expressions by a person or group: -

- derogatory remarks, ‘jokes’, innuendo or gossip, persistent use of incorrect name / pronoun
- threats of disclosing the gender history of an individual
- expressing or acting on stereotypical assumptions
- display of or electronic transmission of offensive materials
- exclusion from social activity
- intrusive questioning of persons undergoing or who have undergone gender reassignment.
- any refusal by a work colleague to work alongside a transsexual employee on grounds relating to their transsexual status

The duty to advance equality and foster good relations places an onus on all government employees to act on transphobic behaviour in the workplace irrespective of whether any transgender staff are known to be present and the Equality Act specifically supports this in its harassment provision.

### **Discrimination**

Discrimination against a transsexual person may arise from any instance of unfavourable treatment by comparison to others because of gender reassignment, including instances where equal treatment puts the transsexual person at a disadvantage including:

- refusal to promote or support a transsexual colleague
- exclusion from any work or work related activity
- failure to tackle harassment
- revealing the transsexual status of an employee
- a refusal to allow the use of facilities appropriate to the acquired gender
- refusing to change records
- refusal to acknowledge the rights of a transsexual person or failing to acknowledge the individual’s transition.

### **Discipline**

Civil Service managers are expected to take a robust line in respect of harassment of or discrimination against transsexual staff in the same way as unacceptable behaviour targeted at any other protected group.

## **8. DEALING WITH / ATTITUDES OF THE PUBLIC**

A staff member must never be removed from a public facing role merely because they are a transsexual person. For many it will not be an issue, as they may have lived outside the workplace in their preferred gender role for a considerable period of time before transition at work and may already be fully comfortable in dealing with the public. Others, while wishing to remain in a public facing role, may appreciate discreet support at least at first.

Some may lack confidence for such a role, however, and any request for a temporary or permanent change of duties should be accommodated if possible. Any decision to remove a transsexual employee from a public facing role must have the full agreement of the individual concerned, even if only as a temporary measure, unless performance is unacceptable (see **Part III 12**).

Transsexual people are always aware of the possibility of harassment or even violence against them, perpetrated for no more reason than the victim is a transsexual person. Managers should be similarly aware in occupations where this is a risk. If a member of the public objects to being dealt with by a transsexual staff member, this is an unacceptable objection. The incident should be managed in the same way as any other pressure to discriminate. It would usually be unlawful for a manager to comply with the wishes of that member of the public.

## **9. SINGLE SEX FACILITIES**

Agreement should be reached about when the transsexual person commences use of sanitary facilities such as toilets and changing rooms appropriate to their new gender role; usually this will be from the date of transition. Difficulties can arise if objections are raised by colleagues, which will need to be dealt with sensitively.

However, genital surgery is not possible before satisfactory completion of the Real Life Experience and it would be humiliating, inappropriate and undermining of the purpose of RLE to expect a person in their acquired gender to use toilet facilities of their birth sex or indeed be restricted to use the accessible toilet.

Any continued objection by work colleagues to use of the facilities appropriate to the gender of transition should be seen as unreasonable and should be met with communication, discussion and education. In this sometimes contentious area, transsexual employees are entitled to expect support from management.

Where there are changing facilities, showers etc, consideration needs to be given to ensure appropriate privacy for all staff, including transsexual staff members. If one is required to change into work clothes or uniform then an employer is obliged to ensure attention to the issues of privacy of all staff, for instance by the installation of individual changing and showering cubicles.

## **10. DRESS CODE**

Any dress code forms part of the contract of employment. Some flexibility must be allowed to accommodate the change of gender role, but the transsexual person is otherwise required to adhere to such a code, dressing appropriately for the acquired gender from the date of transition.

Where clothing or uniform is provided by the employer, new clothing should be provided consistent with the change in gender on the same basis as replacement clothing /uniform is provide to accommodate a change in size.

## **11. SEARCHING**

Discrimination law no longer contains the previous specific bar to prevent transsexual people without gender recognition from searching individuals of their acquired gender.

This is supported by the judgement in the case of *A. vs. Chief Constable of West Yorkshire Police*, made in the knowledge of the coming into effect of the Gender Recognition Act. The judgements of Lord Bingham and Baroness Hale concluded that the case did not revolve around the *Goodwin* case so, by inference, a Gender Recognition Certificate is not necessary to conduct such searches. (see **Part II 4** for legal references)

The Equality Act 2010 allows an “occupational requirement” exception if an employer can illustrate a requirement not to be a transsexual person as being “a proportionate

means of achieving a legitimate aim”. The act is silent on the application of this exception to those with gender recognition but the associated Codes of Practice and guidance make it clear this exception should not be applied in a blanket form, should be rarely used and be fully justified by the employer. Provisions made prior to the Equality Act 2010 need to be construed in this light.

It would therefore appear that such searches can be conducted if: -

- The transsexual person is, for all practical purposes, indistinguishable from a non-transsexual person; OR
- The transsexual person has done everything possible to present as member of their ‘new’ gender; OR
- The transsexual person holds a Gender Recognition Certificate.

Other cases must be considered on an individual basis in line with provisions to maintain the dignity and privacy of both the searched and searching persons.

## 12. GENDER REASSIGNMENT ABSENCE

### Absence from the workplace

Many transsexual employees will need a number of different medical interventions which require absence from work and these are outlined below. Such absence is covered by Section 16 Equality Act 2010 which states that an employer must not treat a person absent because of gender reassignment less favourably than they would treat:

- absence due to sickness or injury
- absence for some other reason if it is not reasonable to do so.

The public sector duty to advance equality requires organisations to have regard to the need to remove or minimise disadvantage and meet the different needs of those with a protected characteristic. This allows and encourages employers to take positive action that removes the significant disadvantage that would inevitably be incurred by staff undergoing gender reassignment. Equality & Human Rights Commission guidance on this point recommended an entirely separate process for dealing with gender reassignment absence

Some government departments, large and small, have developed a separate gender reassignment absence process, in the same way that maternity and disability absence are treated on their own merits. All relevant absence is treated as special leave, allowing the transsexual person to complete the gender reassignment process without such absence counting towards performance or pay trigger points. Otherwise, gender reassignment absence may impact severely on a transsexual person’s career, and might lead to termination of the individual’s employment, particularly during any probationary period. See **Annex B (i)** for an example of such a policy.

Gender reassignment is not “sickness” and should be managed by the manager and the employee to a successful outcome. It’s comparative rarity means such an approach is not costly and experience suggests a committed and less distracted employee will result. A clear policy along these lines also removes the potential for discrimination against transsexual people in recruitment and sends a strong message you are a serious “equal opportunities” employer.

### Confidentiality

Staff who transition in the workplace to start their gender reassignment will inevitably be “visible” to those they work with but it must also be remembered some will require absence from work when not visible or known to colleagues. In all cases managers must note the need for **absolute confidentiality** around an employee’s gender history. No permanent reference to gender change must be made in any local

records and these should not be passed on to any new line manager of the individual without the individual's consent.

### **Performance issues**

Gender reassignment absences should generally be discounted in considering the performance of the transsexual person. In addition, a change in performance objectives should be considered in the first period of reassignment while the individual gains confidence to perform satisfactorily in their acquired gender.

Side effects of medication may adversely affect work performance but the close medical attention received by an individual transitioning should ensure that these are of a minimal and temporary nature. The application of disciplinary action/dismissal from employment in accordance with capability procedures is not appropriate in these circumstances.

The individual may also suffer from longer term depression if their reassignment does not go smoothly for reasons that may or may not relate to work. Although this may be attributable to the individual's reassignment, it should be dealt with under arrangements for reasonable adjustment for disability, rather than as gender reassignment absence.

Redeployment might be considered in cases where it appears that the individual is no longer capable of performing key aspects of their duties. Managers should not seek to impose a change of duties on the individual, but must seek assistance, including medical advice via Occupational Health, before decisions are made in respect of any adjustments, redeployment or the need for termination of employment.

## **13. TYPES OF GENDER REASSIGNMENT ABSENCE**

Gender reassignment can comprise a range of medical interventions to support the process depending on their acquired gender, though the number undertaken will vary according to the needs of the individual, arrived at in consultation with their medical advisors, all of which come within the definition of gender reassignment absence in the policies referred to in 12 above. The speed of the process will also vary depending on the needs of the individual, as well as the availability of NHS provision, and of personal resources to fund treatments not obtained under the NHS. **Annex B** contains two individual example of the process undergone by a transsexual woman and a transsexual man.

### **Medical Assessment/monitoring**

Staff members undergoing gender reassignment involving medical interventions will require time to attend a range of psychiatrist/psychologist appointments that are integral part of the reassignment process as a whole before hormones are prescribed. Successful completion of the Real Life Experience is necessary before a transsexual person may obtain referrals for gender reassignment surgery, so attendance at such appointments is essential to assess suitability for, and monitor the progress of reassignment. Appointments can be at three month intervals, and may require long distance travel for some, depending on the arrangements made by the individual's health authority. Management should be aware that clinics apply strict procedures regarding the appointment, its scheduling and attendance, and failure to attend may incur termination of the individual's treatment.

### **Speech Therapy**

The breaking of the voice at male puberty is irreversible and unaffected by the administration of female hormones. Speech therapy may therefore be required, and is usually provided in such circumstances by the NHS. It may well be sought prior to the actual time of transition and particularly so by transsexual people who work in a public facing role. The number of sessions, usually lasting up to an hour, will vary.

Much of the work involves practice of techniques learned in therapy. The individual may be self-conscious of effort to adapt their voice in the workplace, while this may also be a potential cause of teasing. If therapy does not achieve an acceptable outcome, vocal surgery may also be provided. The individual must not speak for a number of days, after which the voice may be hoarse and squeaky.

### **Facial hair removal**

Transsexual women will commonly undergo laser, pulsed light treatment and/or electrolysis to eliminate facial hair growth. Laser treatment sessions typically occur every four to six weeks (in order to treat at the correct time in the cycle of hair regrowth) over a ten to twenty month period. It is not however a suitable or completely effective treatment for all individuals. Electrolysis sessions may persist for a number of years. The need for hair growth prior to a session and time for skin recovery post-treatment can cause enormous problems to weekly routines of those undergoing treatment. Attendance at work/in public pre and post treatment can therefore be embarrassing and stressful for a transsexual woman and it is recommended therefore that management fully explore with the staff member provisions within working timetables and flexi-time procedures that might facilitate treatment. Although facial hair removal is clearly an example of gender reassignment absence, it is anticipated that special leave will only be required during the crucial early stages of facial hair removal.

### **Hair transplantation**

Transsexual women with male pattern baldness may undertake hair transplantation, although this has to be privately funded.

### **Hormone treatment**

Hormones play an important role in anatomical and psychological gender transition. Male hormones (androgens) are given to biological females and female hormones (oestrogens), sometimes accompanied by testosterone-blocking agents to biological males. These induce a feeling and appearance more akin to members of their acquired gender and also reduce the risk of osteoporosis. Hormones may be administered as tablets, skin patches, gel or by injection or implant. In the last two cases a medical appointment will be necessary.

The effects of administering oestrogen to biological males include breast growth, redistribution of body fat, decrease of body hair, slowing or stopping the loss of scalp hair, decreased upper body strength, and skin softening. For biological females treated with testosterone, effects include deepening of the voice, increased facial and body hair and male pattern baldness, increased upper body strength and decreased hip fat. Frequent blood tests are undertaken and appointments with an endocrinologist may be required.

### **Surgery**

Not all transsexual people undergo gender reassignment surgery. It is complicated, painful and accompanied by the risk of debilitating complications, while some may be physically unable to undergo surgery for health reasons. Each individual decides, usually with medical assistance, whether it is necessary for them to proceed. Otherwise the medical procedures inherent in gender reassignment are an essential response of the individual to the condition of gender dysphoria.

Genital reconstruction surgery is the most well known type of surgery. Genital surgery for transsexual women involves removal of the testes and erectile tissue of the penis and creation of neolabia, neoclitoris and neovagina. Other procedures may be undertaken including breast augmentation, a variety of facial surgery, such as nose reshaping, shortening of the vocal chords (to raise the pitch of the voice) and shaving of the Adam's apple. For transsexual men, surgery may involve bilateral mastectomy, removal of the ovaries and hysterectomy, artificial testes implants and penis construction (phalloplasty).

Prior to such surgery, it is vital that the individual undertake any **hair removal necessary from donor tissue to be used for genital reconstruction**. Failure to address this may render the surgical outcome unsatisfactory for the individual and/or at as a cause of future infections.

Other surgical procedures potentially required include breast, facial and vocal surgery for transsexual women, and mastectomy for transsexual men, to maximise the individual's confidence in their acquired gender and resolve their gender dysphoria.

## **14. RETURN TO WORK AFTER SURGERY**

### **Initial Return Date**

Recovery from genital reconstructive surgery can take up to around three months depending on the treatment necessary, although there is a small possibility, as with any major treatment, that complications may result in a longer incapacity for work. Other surgery usually entails shorter absence up to two weeks. Such absence, including the recovery period, should be certificated if over one week.

### **Adjustments on return to work**

This will depend on the nature of the individual's duties; for example, duties involving lifting are unlikely to be immediately suitable after genital or breast surgery. Many employees will have no problem with a return to full-time work after a period of convalescence, but there may be medical reasons why this is not appropriate, nor should the debilitating nature of surgery be underestimated. Any question of a 'phased return', involving a programme of alternative duties or reduced hours should be resolved as necessary by consultation between the individual and line management by a referral to Occupational Health.

## **15. ORGANISATIONAL RESTRUCTURING / REDEPLOYMENT / REDUNDANCY**

Redundancy is a life changing event with significant implications for all those that experience it, voluntary or otherwise. This is certainly the case for transsexual people who are likely to experience challenges additional to those faced by others in finding alternative employment. For those undergoing the process of gender reassignment, even a change in location can result in practical and funding difficulties that can significantly impact on their medical progress. It is important that the impacts on transsexual staff are included in equality analysis when departments are undertaking restructuring and that mitigating actions are taken as appropriate. This is not about treating transsexual employees more favourably but treating them differently, where it is reasonable to do so, to avoid impacts that would be greater for them than for others.

## **16. DIVERSITY AWARENESS**

A workplace inhabited by a diverse workforce, where each and every member of staff feels comfortable and welcome, and thereby free to contribute fully and to the best of their ability is all the richer and stronger for that blend of individuality. This requires an understanding and acceptance of the needs and differences of others without dwelling on those differences. Many transsexual employees seek acceptance as a man or a woman, rather than as a transsexual person, as just another colleague, workmate, team member, manager, maybe friend, and worthy of just the same respect as anyone else.

# Annexes

## **ANNEX A (i) The personal account of a transsexual woman and civil servant.**

### **LOST YEARS**

Transsexualism was something I'd never heard of when I was young. My early life was lived in confusion and ignorance, my thoughts on why my body did not match my brain were a mystery to myself and a secret from everyone else.

I grew up in the 1950s and 60s - but they were still the Dark Ages for people like me. Did everyone live with the same secret problems and did they go away when you got older? But on the other hand I felt different. I felt 'wrong'. But I never really spoke to anyone about this until I was 28 years old despite a desperate need.

So I'm married with children by the time I realise that what's inside me is the real me and is a permanent state of affairs. By day the Civil Servant, by evening the rock guitar-toting long hair trying to blast away the angst, trying to accept that the life I should be leading will only ever exist in my dream world.

And, after separation I never missed a day's access or a maintenance payment – and still don't understand those that do. And that responsibility meant I must go on as things were. I lied to the Court Welfare Officer in denying my 'transgenderism'. I was terrified I might not be allowed to be with my own children. And as I aged I tried to accept that I would just have to make the best of life as I could, although by doing so I was living a lie.

My subsequent partner tolerated to some extent my transgender side but I could never be totally open even with her. And I could never be what she needed. How can a man be a man when he isn't one to start with?

I silently and inwardly pleaded to swap lives with women, whether I knew them or not. My mind was swamped, as I could think of nothing else than being female. And I felt cheated. What had I done not to be born like other girls?

So I live a sort of part-time trans lifestyle. When not in the office or on stage with the band, it's the London club scene and the real me 'came out to play' for a few hours. I circulate in the transvestite world but become increasingly aware of the differences between them and me. I can't put the real me back in a wardrobe till next week. It lives in my head all the time driving me crazy.

Just one or two trusted colleagues know why there's a scrap of nail varnish that I missed removing, but others apparently don't notice or comment on the shaped eyebrows. Much is made nowadays of transsexual people in the workplace but rarely do thoughts dwell on those who for whatever reason have not transitioned, maybe never will, to their core 'gender identity'. A pressure cooker is what immediately comes to mind. Work, particularly if you enjoy it, can be a welcome distracting release but only momentarily. More likely you alternate between frustratingly imagining yourself carrying out the same tasks, but openly as the woman you know yourself to be and being terrified of people knowing. Potential derision, humiliation, harassment and, in those days, the sack as either a security risk or just because you are transgender.

My youngest reaches 21 and I feel I can hold my head up in that I did my best for my children. And/but with no one dependent on me any more I can no longer cope with

the fact that I hate myself, my body and my life. Guitar amp volume set at eleven for medicinal reasons no longer helps. I get more and more depressed, focusing on the next high, perhaps a weekend in the Manchester 'Village', to get me through the present but after each high I reach a deeper low. I became a lone drinker, at home with my bottles of Budweiser. Where that would have led me I'm not sure. Suicide? Quite possibly. That would have been ironic seeing that suicide was used as a threat against me when someone I cared about learned of my gender dysphoria.

But now, increasingly I began to think more and more that it was MY life. Chris Rea sang "You can waste a whole lifetime; trying to be; what you think is expected of you; but you'll never be free". I became more aware that I could, and had to do what had always been dismissed as impossible. I confided more in true friends, ceased worrying what others thought of me and started to believe that I was not perhaps too old to take action to realize my true self.

My neighbour told me about a retired doctor who is transsexual. I called to see her, then to my GP. That led to a psychiatrist and then Charing Cross Hospital Gender Clinic. I remember so clearly coming out of my first meeting with the consultant there, the first person I had ever spoken to who could really do something to help me, and hugging my friend amidst tears of happiness.

Local management had little idea what to do when I informed a senior manager of my situation – but we both knew that it was no longer possible to dismiss someone just because they were transsexual. I wouldn't have cared if they could – except that I needed to show Charing Cross that the real me could exist in the real world. I have. Just months after that chat with the retired doctor I transitioned gender identity and ultimately progressed through surgery. Nowadays I no longer turn away in disgust from the bedroom mirror reflection of my body.

But how was work? Before that first day I had already met a fair few colleagues as my female self. Perhaps surprisingly no nerves, just an overwhelming sense of contentment. I had put in a lot of groundwork in explaining to one and all before hand but I still bless a certain character who, instead of saying, "You look good" said "Get your arse downstairs girl, there's work to be done". The very first acceptance of me as a working woman.

But not everyone adjusted as easily as that guy. And some clearly never will although harassment policies generally seem to stop them from saying to my face what their eyes betray. Transsexual people have a well-developed radar system born out of self-preservation in a world that too often judges on appearance and labels. 'Pass' well and live on a knife edge of discovery and potential accusations of deception. 'Pass' poorly and face sniggers, pointed fingers and be all too well aware as to why International Transgender Remembrance Day is held. I pass adequately and can work in a public facing role without shredded nerves or needing skin as thick as that of a rhinoceros.

But I still have to live with the nudge nudge wink wink brigade. I still cannot be sure who I will be next forced to explain my gender history to as record mismatches are shown up. I have to accept that people will always find me a curiosity. I can handle that but resent being regarded as public property and fair game for judgement. So many assume the moral right to condemn those like me merely for existing yet know so very little about what makes us tick. Do they really think we take this course because of some silly whim? On the other hand, I get sick of people telling me how brave I am. Bravery is the soldier in battle – all people like me have done is face up to what we had to do. We cannot choose whether to enlist or not. It was inside us at birth.

I am so proud of my parents who are wonderful and with whom I've found a depth of love that perhaps was never there before. Maybe one day I will get to see my

children again. Nothing's free you see, a price tag on even partial happiness is unavoidable.

Someone special in my life would be nice but maybe that's being greedy! I can cope with my own company and besides, I've got some lovely friends. I no longer cry Bud-flavoured tears at bedtime as I gaze longingly at the pictures of Alice Cooper on the wall. I knew he would understand and never desert me even if the rest of the world did. I have idolized him for over thirty years and it really doesn't matter that he doesn't know I exist as he has walked with me through those Dark Ages.

There is so much more to this story – enough to fill a book. Tales of self rejection. Personal relationships. Depths of thought and feeling. But maybe as a side swipe to those who feel the right to hold my life up to public scrutiny, the full story will only ever be known to me.

Since the day I actually embarked on my transsexual journey I have truthfully not once had second thoughts. I have no regrets. Except fifty years of living a lie. Fifty years of hiding the truth from the world. Fifty lost years. I can never get them back.

*A Fellow Civil Servant*

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## **ANNEX A (ii) The personal account of a transsexual man and civil servant**

### **A TRANSMAN'S EXPERIENCE**

My mum waited eight years to have a little girl and I was in constant battle with her from the age of four over appropriate toys, clothing and behaviour. My role models as a child were my brothers and dad as well as men in films and TV, such as Gregory Peck in 'To Kill A Mocking Bird,' the dad in Little House On The Prairie' and Gene Kelly. (I should probably explain here that I was brought up very strictly Methodist and my TV viewing was limited) I also searched hungrily for children 'like me' such as George from the Famous Five, Scout in 'To Kill A Mocking Bird' and any film with Jodie Foster in it.

Up to the age of eight, school was fine as I went to a village school and we all played together, but when we moved, my new school was very strictly split down gender lines. From the first week till I was sixteen I was bullied by the same group of children for being "weird". They found out the words "Dyke" and "Lezzer" pretty early on and gradually progressed from taunts to low-level physical attacks like sticking bags behind my legs and pushing me over, or walking on my heels. At High School I had to fight to be allowed to do woodwork and metalwork and tried to get permission to wear trousers. I joined art club so I didn't have to go out at lunch break. My mum and dad helped me research how to be a girl and how to perform better and they supported me as best they could. They didn't really understand and we still had battles over hair and clothes but nobody would have dreamed of buying me make up and the words "tom boy" were a haven during puberty.

Puberty was difficult. Periods, my breasts growing to the same size as Barbara Windsor's! My body betraying me. I knew it wasn't logical but deep down I had hoped there had been a mistake and puberty would see me develop as a man. I had boyfriends but they were more mates than lovers. I thought I must be gay or bisexual. (I couldn't identify as a lesbian because they were women) It is kind of hard to describe but at a time when others were thinking about how their lives would be, I was in a sort of stasis. I couldn't dream myself into the future as I had the body of a woman but many jobs and careers I was interested in were difficult for women to enter (this was the early 80s) I couldn't see how I would ever have a family or be a father. Like many LGBTT young people I lacked images that allowed me to see myself in society.

As I grew up I found more acceptance and connection with the gay and lesbian community and would now describe myself as part of the Queer Continuum, but each transsexual person has to find their own place and we range in sexuality as much as the rest of society. My partner is a very surprised Radical Lesbian Feminist who has only ever known me as male. I am open about my transsexualism and this is important for my partner's identity as otherwise her sexuality turns heterosexual by default. People's attitudes to us have changed now. They don't automatically assume we are two lesbians and no one shouts abuse or even stares at us. We can talk safely anywhere holding hands and show affection in public which would be wonderful if it was because the world was accepting of difference and same sex couples, but it is not. It is normally just because they assume we are "straight". The transition of the transsexual partner affects the other individual's identity on a deep level. Without them having changed at all, their own sex, gender role and sexuality, right to be a parent, relationship with their family can all be called into question. And they may also find it hard to talk about their own grief over the changes in their partner because they are trying to be supportive.

So what has the transition process been like and how did I manage it in the workplace? Firstly I should explain that I was going to transition when I was twenty four but needed to put it on hold till I was thirty because my family's needs were greater than any of our own due to my dad's illness. For those of us who reached puberty and adulthood before the late 80s the services for transitioning and ease of

accessing them were patchy and sometimes extremely damaging. By the time the options to transition were more freely accessible many of us had been living in the gender assigned to us at birth for many years. We had jobs, families and responsibilities so any decision to transition had to take in the risk of losing these and the fallout for our loved ones. For most of my adulthood I lived a dual life, one gender at work and to family and the other socially. I dressed in fully male clothing, bound my chest and wore prosthetic devices, my hair was cut by a barber and, till I smiled or spoke, many people would assume I was a young lad.

At work and to my family I was openly bisexual but everyone knew me by my female name and all my documents showed I was female.

As I hit my thirties my normally androgynous face started to age in female patterns, my hips and thighs started to set more firmly in female weight pattern and of course I was treated by many people as a young man of sixteen to eighteen when I was a mature man/woman of thirty. It began to affect me mentally and all the body hatred I had learned to live with became unbearable. I wrote a letter to my doctor (I would recommend this to others), which allowed him time to prepare and digest what I had to say. Meanwhile I changed my name by deed poll. The most moving moment of my whole transition happened when I was at the doctor's and he called my new name. Until then whenever I had heard my name I lost my identity. But when the doctor called me I felt visible for the first time in my life.

The waiting list to go to Leeds or Sheffield Gender Identity Clinics was two and eight years so my doctor agreed to send me to Charing Cross GIC. First I had to be seen by a local psychiatrist to check I had no underlying mental illness. So far I have had to see four psychiatrists who all agree. I am totally sane. (Honest!)

On referral to the GIC I had to be seen by two Gender Identity Specialists to receive a diagnosis of gender dysphoria. This involved two hour long discussions during which they asked me about my childhood, my relationships with family, friends and partners, education and work experience and about my relationship to my body and identity. They also checked how much I understood about the transition process and what I was hoping to achieve by following this path. In my case the process was quite straightforward and I was not required to undergo any therapy or to go through the 'Real Life Test' as I was already living and presenting as male both publicly and privately. My Governor wrote a letter confirming that I was presenting as male at work which helped with this initial assessment process.

I was prescribed Sustanon 250, a deep intra-muscular injection of testosterone compounds. Within a few months my voice began to go husky (like I had a sore throat), my chest cavity expanded, my shoulders began to widen, my neck thickened and the first little line of stomach hair delicately crept up my belly. I went through a sort of Scooby Doo phase of broken voice, which everyone found hilarious but it has settled well onto the scale of male voices. Fourteen months after taking T for the first time my body has changed enormously both in shape and hair growth. My face has changed a lot. My nose has thickened, the fat under a woman's skin has gone which has changed the shape of my cheeks and the lines of my face, my eyebrows have thickened as has my head hair and my jaw line has squared. People who meet me in the street tend to read me easily as male now and my voice and smile no longer give me away.

I work in the Prison Service and transitioned whilst at work. I began by talking to the Governor and my line manager and they told the rest of the senior management team for me and we agreed issues such as toilet and locker room etiquette. (I agreed that I would use the female toilets till my periods ceased and then would use the men's) I used the informal network within the rest of staff to manage how the information spread, having first told my close workmates. People immediately started to use my new name and change it on official documents but it took about two years for everyone to switch to he/him/his. I didn't take it as offensive if people made

mistakes, which made it easier for everyone. Different people take longer to get their heads round it. I came in for a lot of teasing but it was inclusive, no one excluded me. If there was any nastiness then other staff must have protected me very well as I never experienced even a barbed jibe. Many of them came up in the first months to wish me well and to say they were “proud ”of me or “congratulations.

Though I was supported at work this didn't mean the transition process was easy. Ordinary stresses and pressures don't conveniently put themselves on hold whilst you transition and the British population is still not very trans-friendly. I had thought I was doing alright with coming out and transitioning but, six months after I had told everyone, I was hit with the after effects of shock/stress that had no connection with how well I had been accepted. I had sudden anxiety attacks, my confidence took a nose-dive and I was not sleeping/eating properly. I found it hard to be in crowds or to deal with everyday interaction and would react to situations of stress with uncharacteristic tearfulness or anger over which I had no control. I talked to my doctor and he recommended some sessions of counselling and that was enough to help me get systems in place to cope with these stress symptoms. This period of pre and early transition is very hard to negotiate as the individual is dealing with a tremendous amount of change both in body and mental adjustment to the transition on top of the usual pressures of life. I had a great line manager who was flexible about my workload, which gave me time to recover.

I am now much further on in transition and am waiting to have reconstructive chest surgery. I have had so much going on in my life with changing jobs and moving cities that the wait for this hasn't been too much of a problem. In fact, after the early transition period things have been much easier. Nothing much phases me and I am certainly much more me.

*A fellow civil servant*

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## ANNEX B (i) Gender Reassignment Absence Guide

All periods of absence resulting directly from the process of gender reassignment should be handled in a way that does not penalise as poor performance or count towards other attendance trigger points. Only absence not resulting from the process of gender reassignment may be taken into account when deciding whether or not to apply poor attendance procedures.

The following table shows examples of eligibility for paid gender reassignment leave, but note that you should try to arrange appointments outside normal working hours if possible.

Reason for absence	Eligible for special leave?
<p>1. Appointments with psychiatrists, psychologists or counsellors to</p> <ul style="list-style-type: none"> <li>• assess your gender dysphoria, in relation to the condition generally, not just in relation to work.</li> <li>• support you through the process of gender reassignment</li> <li>• provide referrals for medical interventions that will help you to live in your acquired gender and so perform your job effectively</li> </ul>	Yes
<p>2. Appointments with healthcare professionals for blood tests, blood pressure monitoring, hormone consultations and injections</p>	Yes
<p>3. Appointments with healthcare professionals for a:</p> <ul style="list-style-type: none"> <li>• general check up</li> <li>• reason unconnected with the gender reassignment</li> <li>• reason not directly related the process of gender reassignment</li> </ul>	No
<p>4. Surgical interventions that will help you to live in your acquired gender and so perform your job effectively:</p> <ul style="list-style-type: none"> <li>• genital surgery</li> <li>• breast surgery, including mastectomy, augmentation and correction of asymmetry</li> <li>• throat surgery (Adam's apple removal and/or vocal chord surgery)</li> <li>• facial feminisation surgery, for example rhinoplasty (nose re-shaping)</li> <li>• hair transplantation</li> </ul> <p>To include the surgery itself, any hospital stay and the immediate recovery period (the period for which a specialist explicitly instructs a patient to restrict their activities and not return to work in order to not jeopardise the benefit of the procedure) and any complications directly arising from the operation.</p>	Yes
<p>5. Appointments required for pre-surgical assessment and post-surgical follow-up, including pre-surgical hair removal from the area to be subjected to surgery. This will include the genital area and also other areas of the body from which any donor skin/flesh is taken.</p>	Yes

<b>Reason for absence</b>	<b>Eligible for special leave?</b>
6. Treatment for any illness or condition not directly related the process of gender reassignment.	No
7. Facial hair removal for gender reassignment purposes	Yes
8. Speech therapy	Yes

**ANNEX B(ii) GENDER TRANSITION TEMPLATE**

Stage in reassignment process	What, when, who or how?	When?
<b>1. Telling people about your situation.</b> Who have you told:		
Welfare		
HR		
Your manager/mentor		
Close colleagues		
Your union rep		
<b>2. Planning your gender reassignment:</b>		
Your new name (in full)		
Your office		
Name of line manager		
Name of confidential contact/project manager		
Medical advisor's name		
Medical advisor's contact phone number		
<b>3. Telling your colleagues what is going on</b>		
Tell people face-to-face individually or in groups		
Ask your manager or project manager to tell people for you.		
Use photos		
Pass on your news in other ways		
Carry out awareness sessions		
Answering questions		
Using the grapevine		
<b>4. Getting ready for your first day in your new role</b>		
When will it be?		
Do you need a change of role?		
Are you ready?		
Is your wardrobe ready?		
Are your colleagues ready?		
Can you get into work OK?		
The Media!		

<b>5. Changing everything into your new identity</b>		
Your travel pass & photo		
Your work pass & photo		
Your name:		
do your colleagues know it?		
name badges		
telephone lists		
letter templates		
what else?:		
<b>4. Your medical appointments and absences</b>		
Counselling*		
Psychiatric appointments*		
Regular medical/ blood tests for hormone therapy*		
Hair removal treatment*		
Speech therapy*		
Genital surgery:		
pre-surgery consultations		
operation & convalescence		
post-surgery consultations		
Mastectomy:		
pre-surgery consultations		
operation & convalescence		
post-surgery consultations		
Throat surgery:		
pre-surgery consultations		
operation & convalescence		
post-surgery consultations		
Other surgery (please identify what surgery is involved):		
1. pre-surgery consultations		
operation & convalescence		
post-surgery consultations		
2. pre-surgery consultations		
operation & convalescence		
post-surgery consultations		
3. pre-surgery consultations		
operation & convalescence		
post-surgery consultations		

## ANNEX C(i)

### Male to Female Gender Reassignment Timetable

(Typical example NHS treatment – RLE is one year less for private treatment)

<b>Start</b>	Discussed gender dysphoria with GP (Funding rules bar GP from direct referral to a Gender Identity Clinic (GID))
<b>3 months</b>	Interview with local Consultant Psychiatrist (Reports to local Health Authority) for tertiary referral to Gender Identity Clinic  Intense Pulsed Light (IPL) & electrolysis facial treatments commenced on a monthly basis. (Not NHS funded)
<b>4 months</b>	Local Health Authority approve outpatient funding at Gender Identity Clinic
<b>7 months</b>	First interview at Charing Cross Gender Identity Clinic. (Advised to change name and commence 'Real Life Experience' (RLE) Put onto a schedule of quarterly appointments at Charing X GID)
<b>9 months</b>	Name changed by statutory declaration and RLE commenced
<b>10 months</b>	'Second opinion' interview at Charing X GID (Advised GP would be recommended to commence prescription of hormones)
<b>11 months</b>	Hormone treatment commenced (Dosage subsequently doubled and then trebled - standard NHS prescription charges) Finasteride treatment commenced – (to be taken up until GRS - private prescription)
<b>1 year, 11 months</b>	Completed monthly IPL treatments and frequency of electrolysis increased to weekly. (IPL cost c £2,000 + – electrolysis costs £40+ week.)
<b>2 years, 4 months</b>	First Gender Reassignment Surgery (GRS) referral interview at Charing Cross GID. (Successful)
<b>2 years, 5 months</b>	Appointment with plastic surgeon (following recommendation by Charing X and referral by GP) re asymmetrical breast development
<b>2 years, 9 months</b>	Second GRS referral interview at Charing X GID. (Successful) In patient funding by local health authority for GRS requested
<b>2 years,</b>	Surgery to correct asymmetrical breast development at regional hospital,

**11 months** incorporating bi-lateral augmentation. Recovery period – up to 3 weeks.  
Operation not entirely successful and causing pain

**3 years,  
1 month** Local Health Authority authorise funding for GRS

**3 years,  
4 months** Appointment with /examination by surgeon at Charing X Hospital.  
(Advised waiting list of nine months)

**3 years,  
7 months** GRS (Brought forward one month from originally scheduled date due to a  
cancellation). Recovery period 2 to 3 months but complications can cause  
this to be extended or necessitate a return to work on a part-time basis, at  
least initially

**3 years,  
9 months** Corrective surgery re: breast asymmetry problem

**PENDING** Completion of electrolysis

Hormone treatment has to be continued for life (to guard against  
osteoporosis)

## ANNEX C(ii)

### Female to Male Gender Reassignment Timetable

(Typical example - Part private treatment, part NHS treatment)

<b>Start</b>	Discussed gender dysphoria with private psychiatrist. (treatment offered – start delayed pending resolution of personal matters)
<b>11 months</b>	Hormone treatment commenced
<b>1 year, 1 month</b>	Name changed and hormone prescription transferred from private to NHS
<b>1 year, 8 months</b>	Obtained referral letter for surgery
<b>1 year, 9 months</b>	Consultation with surgeon
<b>1 year, 11 months</b>	Chest surgery done (Bilateral mastectomy) Recovery period 3 weeks
<b>2 years, 6 months</b>	Minor adjustment to left side of chest
<b>3 years</b>	Minor adjustment to right side of chest
<b>4 years</b>	Final 'tidy up' to chest
<b>4 years, 4 months</b>	Started process of moving entirely from private sector to NHS in order to fund further surgery
<b>4 years, 9 months</b>	Appointment with local psychiatrist for referral to a Gender Identity Clinic GID
<b>5 years, 1 month</b>	First assessment with psychiatrist at Charing Cross GID  Referral for Gender Reassignment Surgery (GRS) obtained from private psychiatrist to compare options
<b>5 years, 5 months</b>	Second assessment at Charing X GID for referral for surgery

**6 years,  
6 months** NHS funding authorised for phalloplasty surgery

**6 years,  
11 months** Appointment with surgeon. (Advised waiting list of twelve to eighteen months)

**7 years** Phalloplasty and 'internal removal' surgery. Recovery period 2 – 3 months

**8 years,  
1 month** Insertion of neo-testicles and cosmetic construction of glans

**8 years,  
6 months** Removal of one neo testicle and insertion of penile erection 'pump'

**PENDING** Some corrective surgery

## ANNEX D

### Specimen Transition Document

*Dear Colleagues*

*I am writing to you all at (your workplace) because I probably won't be able to speak to you all individually, and I want to keep you all informed about forthcoming developments directly, rather than leaving it to the grapevine. As you know there are some major changes in my life coming up over the next few years, some of which will start happening within the next few months.*

*When I first joined (your organisation) in 2008, you may remember that I chose to be open about my status as a transgendered person and my future plans for gender reassignment. This was a decision based after the careful consideration of many factors, but has been proven I believe to have been the right one for me in terms of the whole process, which can be long, complex and beset with challenges.*

*I am grateful to all of you for the support, encouragement and understanding that has been shown to me over these past few years, a reflection of (your workplace) observance of (your organisation's) diversity policy. I also like to think that I have also played my part in promoting awareness of trans issues, arguably one of the least encountered and understood of the diversity strands. Hopefully this has made it easier for people to comprehend the kind of changes I will be facing in the near future and the reasonable adjustments I will be asking you all to make accordingly.*

*I have been seeing specialist doctors for some years, who confirm what I have recognised for a long time. Quite simply, I identify as a woman rather than as a man, but for many years and reasons have had to face life in my birth gender, living at times with a great degree of confusion or discomfort;*

*feelings which I have learned to ignore, repress or overcome. This experience is what is diagnosed as and termed gender dysphoria.*

*I have now reached the point in my life where I cannot continue living in my old gender role, and in mid August to early September, arranged around various meetings and leave dates, I will be commencing living my life in my affirmed gender, and from that time on I will be living and working as a woman. I will still be in essence the same person you have all come to know, and I will continue to do the same job. In that respect nothing will change. There will be some changes in my appearance, and I will no longer be known as (old name) but as (new name). Pronouns are sometimes tricky, but I am sure I can count on you all to refer to me as 'she'.*

*We have great values in (your organisation); we celebrate diversity and treat each other as individuals and with dignity and respect, so I am confident that all of you will give me the support that I need through this potentially challenging stage of my life. I am glad I ended up working here with you all at (your workplace) and can't imagine a better place to be undergoing this first key stage of my transition.*

*Finally, please feel free to ask me at any time about anything you don't understand, or would like to know. I don't mind answering questions, and if you have any uncertainties, I would much rather you spoke to me directly about them.*

*With my warmest regards and gratitude*

Your  
photo  
  
(optional)

**ANNEX E**  
**Workplace Support / Information** (Updated August 2011)

**A:GENDER**

**a:gender** is the support network for staff in government departments/agencies who have changed or need to change permanently their perceived gender, or who identify as intersex.

Telephone: 0114 2072547

Email: [agender@homeoffice.gsi.gov.uk](mailto:agender@homeoffice.gsi.gov.uk)

Website: [www.agender.org.uk](http://www.agender.org.uk)

Address: 2<sup>nd</sup> Floor, Peel Building, 2 Marsham Street, London SW1P 4DF

Also at: Vulcan House, Steel Building, PO Box 3468, Sheffield S3 8NU

Add your departmental contacts here:

**DEPARTMENTAL SECURITY UNIT**

Telephone:

Email:

**EQUALITY & DIVERSITY TEAM**

Telephone:

Email:

Address:

**GENDER REASSIGNMENT LIAISON OFFICERS**

Telephone:

Email:

Address:

**H.O. PAY & PENSIONS SERVICE**

Telephone :

Email:

Telephone:

**DEPARTMENTAL STAFF NETWORK ENCOMPASSING TRANS PEOPLE**

Telephone:

Email:

Address:

## **ANNEX F**

### **Support/Information Outside Work)**

#### **DEPEND**

An organisation offering free, confidential and non-judgmental advice, information and support to all family members, spouses, partners and friends of transsexual people in the UK.

Website: [www.depend.org.uk](http://www.depend.org.uk)

Address: BM Depend, London, WC1N 3XX

#### **EQUALITY & HUMAN RIGHTS COMMISSION**

A statutory body with the responsibility to protect, enforce and promote equality across the seven "protected" grounds - age, disability, gender, race, religion and belief, sexual orientation and gender reassignment.

Website: [www.equalityhumanrights.com](http://www.equalityhumanrights.com)

Telephone: 0207 3117 0235

Address: 3 More London, Riverside Tooley Street, London SE1 2RG

#### **FTM NETWORK**

An informal and self help group open to female to male transgender and transsexual people

Website: <http://ftmlondon.org.uk/>

Address: FTM Network, BM Network, London WC1N 3XX

#### **GENDER RECOGNITION PANEL**

The Gender Recognition Panel has been established under the Gender Recognition Act 2004 to assess applications from transsexual people for legal recognition in their acquired gender.

Website: [www.grp.gov.uk](http://www.grp.gov.uk)

Telephone: 0845 355 5155

Address: PO Box 6987, Leicester LE1 6ZX

#### **GENDER TRUST**

A registered charity which specifically helps adults who are transsexual, gender dysphoric or transgender.

Website: [www.gendertrust.org.uk](http://www.gendertrust.org.uk)

Telephone: 01273 234024

Address: PO Box 3192, Brighton BN1 3WR

## **GENDER IDENTITY RESEARCH & EDUCATION SOCIETY (GIRES)**

A registered charity that aims to promote education based on research into gender identity and intersex issues and supports the right of individuals to live according to their true gender identity, rather than one imposed upon them at birth.

Website: [www.gires.org.uk](http://www.gires.org.uk)

Telephone: 01372 801554

Address: Molverley, The Warren, Ashted, Surrey KT21 2SP

## **MERMAIDS**

Family support group for children and teenagers with gender identity issues.

Website: [www.mermaidsuk.org.uk](http://www.mermaidsuk.org.uk)

Address: BM Mermaids, London, WC1N 3XX

## **PRESS FOR CHANGE**

Press for Change is a political lobbying and educational organisation which campaigns to achieve equal rights and liberties for all transgender people in the UK, through legislation and social change.

Website: [transequality.co.uk](http://transequality.co.uk)

Address: Press for Change, BM Network, London WC1N 3XX

## **SCOTTISH TRANSGENDER ALLIANCE**

Provides employers and service providers in Scotland with training and good practice guidance on trans equality issues.

Website: [www.scottishtrans.org](http://www.scottishtrans.org).

Telephone: 07020 933952

Address: 30 Bernard Street, Edinburgh EH6 6PR

## **UK INTERSEX ASSOCIATION**

An education, advocacy, campaigning and support organisation working on behalf of intersex people.

Website: [www.ukia.co.uk](http://www.ukia.co.uk)