



Diversity Matters

Transsexual and Transgender Issues

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Finding Positive Employers

Many of the UK's employers are now recognising the business advantage of creating a work environment that draws people from a broad social spectrum. They are recruiting employees based on their merit regardless of gender, sexuality, age, colour, class, disability or any other difference.

However, some employers struggle to embrace the challenges that are involved in recruiting a diverse workforce. Some evidence suggests that transsexual people in particular may face more discrimination in comparison with other groups. This may not be blatant discrimination but purely a lack of knowledge around the issues facing trans people.

A transsexual person is defined by The Gender Trust as a person who feels an overwhelming desire to transition and fulfil their life as a member of the opposite gender, most transsexuals actively desire and complete gender confirmation surgery. Transgender is a person who transition to live in the gender role of their choice but has not undergone, and generally does not intend to undergo genital surgery (The Gender Trust - www.gendertrust.org.uk). As history has shown with other minority groups, the passing of legislation to combat discrimination is often the first factor in helping to move employers towards fairer recruitment.

The introduction of new legislation has made it illegal for employers to discriminate against transsexual people in the workplace. Although it is illegal to discriminate some employers are better prepared to recruit trans-people than others. When looking for positive employers it is important to seek organisations with policies relating specifically to trans issues already in place.

What to look for:

- An equal opportunities policy; especially look for policies that relate to the recruitment of transsexual people.
- Look at the terminology employees have used in their policies. The use of the term "gender identity" (currently considered the most appropriate term) would suggest that they have researched best practice.
- A specific policy on transitioning within the workplace.
- Any other policies that would protect a transsexual employee, particularly any relating to confidentiality, harassment, allocation of resources (such as office space and equipment), access to development (such as training, secondment, internal job vacancies and promotions), pensions and insurance.
- In larger companies the employer may have a dedicated 'equality and diversity' or even a 'sexual harassment' officer. This would suggest that they take issues relating to transsexual people seriously.
- Look out for those employers who have received The Press for Change Award for Equal Opportunities, which demonstrates a company's positive commitment to recruiting transsexual people.
- Further examples of diversity initiatives and activities can be found by checking out Industry Insights.

Marketing Yourself and Disclosure

Marketing yourself

When you are marketing yourself remember that you are offering the employer a wide range of skills, knowledge and expertise, which will be of tremendous value to them.

As a trans person you may have faced some big hurdles in your life that you can, if you wish, use as examples of your strengths and your capabilities in the face of adversity. There are a number of positive selling points that as trans person you can draw on in interviews to market yourself as a strong adaptable individual. This may include an ability to overcome obstacles, an ability to persevere against adversity. These are qualities that employers look for in their employees.

If you are targeting graduate employers, you may find that many of your personal experiences provide you with rich examples of the competencies they require. However remember that you do not need to, if you do not want to disclose any of your trans history or your intent to begin the transition process if you do not want to.

Disclosure

Legally you are not required to disclose your circumstances to an employer, (unless there is a 'genuine occupational requirement' related to the job, please see the Your Rights section). However, depending on your individual circumstances, particularly at the earliest stages of your transition, you may wish to weigh up the pros and cons of disclosure to your employer/potential employer.

It is also worth anticipating the possible concerns employers may have about recruiting people at various stages of the transition process. Even the most understanding of employers may need support in understanding your situation.

Whilst there is legislation to protect you, it is still a good idea to make the employer aware of the extent to which the process of transition will impact on your work, if at all and how they should deal with it.

Regardless of whether or not you are pre or post transition, or whether or not you have a gender recognition certificate (GRC), you may need to consider your personal experiences to date and how comfortable with your self as this may impact on your decision whether or not to disclose.

The earliest opportunity to disclose your status will be at the application stage. If you are not yet transitioning, or are not yet in possession of a GRC, then you are still obliged to declare your sex at birth on the application form if asked (many forms still have a gender question, though this is often part of the equal opportunities monitoring section which is detached from the rest of the form).

If your presenting gender differs from the sex on your birth certificate but you do not intend to transition you need to declare your sex at birth on the job applications. Even if you are in possession of a GRC, you are still able to raise the issue of your transition, if you wish to, elsewhere on the form. If you have not yet transitioned you may find it more appropriate not to inform the employer of your intentions at this stage, or the interview stage, as once you are in employment, you will be protected by employment law. There is certainly no legal obligation to disclose at the interview stage.

Regardless of whether you disclose at the application, interview stage or at all remember the following:

- research the organisation's commitment to recruiting a diverse workforce (see the Finding Positive Employers section). Regardless of their stated commitment to diversity remember that they may still need some educating on your personal situation and the impact, if any, that it may have on your work;
- don't sell yourself short and if you wish to, you can talk about how your experiences have had a positive impact on your life and your potential as an employee in interviews;
- if you do disclose your situation or are in the process of transitioning you will need to be ready to work with the employer to assist your smooth integration into the workforce. Cooperative approaches to disclosing to colleagues within the organisation work well. This may be particularly appropriate if you are transitioning within a workplace you are already employed in;
- know the relevant legislation and be ready to remind the employer of their obligations to you if needed. They may even welcome the insight you are able to provide on accommodating trans people into the workforce.

Your Rights

Overview of legislation

As the issues that affect transgender people have become more understood the legislation that protects transsexual people within the work place has also developed.

There are three key pieces of legislation that you need to be aware of:

- Sex Discrimination (Gender Reassignment) Regulations 1999;
- Gender Recognition Act 2004;
- The Equality Bill (April 2009).

The Sex Discrimination Act 1975 (SDA) has been expanded to include the Sex Discrimination (Gender Reassignment) Regulation 1999. The act was extended to cover discrimination on the grounds of gender reassignment in employment and vocational training.

The Sex Discrimination (Gender Reassignment) Regulations 1999 Act also covers the recruitment process. This means that any discrimination on the grounds of gender reassignment constitutes discrimination on the grounds of sex and is therefore illegal. The 1999 regulations make it illegal to discriminate against anyone in employment or training who:

- intends to undergo gender reassignment;
- is undergoing gender reassignment;
- has undergone gender reassignment.

This ensures that all stages of the gender reassignment process, including the very initial stages are covered by the Regulations. However, those who do not intend to undergo gender confirmation surgery, yet present themselves in a gender opposite to that on their original birth certificate are not protected by law.

Gender reassignment is defined by the SDA as:

a process which is taken under medical supervision for the purpose of reassigning a person's sex by changing physiological or other characteristics of sex, and includes any part of such a process.

Legal protection is available from the time you inform your employer that you are intending to undergo gender confirmation surgery. If, at this, or any later stage, you believe you have been the victim of discrimination by either your employer, or your colleagues you can:

- discuss the issue with your employer and tactfully remind them of their responsibilities to you under current regulations;
- talk to a number of organisations who can offer you advice and support, such as The Gender Trust.
- if this doesn't work and you wish to take the matter further you can make a formal complaint to an employment tribunal.

Genuine Occupational Qualification

There are limited circumstances where it might be lawful to discriminate on the grounds of Gender Reassignment just as there are some situations where discrimination is legal on the grounds of sex. These include a role where a person's sex is a Genuine Occupational Qualification (GOQ) for the role in question, for example:

- employment that involve conducting intimate searches (e.g. the Police);
- a role which involves working in a private home where intimate contact in these circumstances may be required (e.g. personal carer).

The Gender Recognition Act 2004

The Gender Recognition Act came into force in April 2005 and allows transsexual people to seek full legal recognition of their gender identity. It allows transsexual people to apply, through the Gender Recognition Panel, for a gender recognition certificate (GRC). This means that they:

- for all legal purposes have the same rights and responsibilities associated with their gender identity;
- can marry a person of the opposite gender/entitled to a civil partnership;
- are eligible for the state retirement pension (and other benefits) at the age appropriate to the new gender;
- can apply for a new birth certificate which does not disclose the fact that their gender has changed and in effect will be just as if it has always been that way.

If an employer dismisses an individual because of impending gender confirmation treatment, the employer would be breaking their duties under the Sex Discrimination Act, just as it is illegal to dismiss a pregnant woman. There are no specific allowances within the regulations in terms of time off for transgender reassignment surgery. Transsexual people should be treated the same as anyone else living with a life-altering condition.

The Equality Bill (April 2009)

The new Equality Bill has been published by the British Government and has some positive implications in regards to transgender equality issues (however it does not apply to Northern Ireland). The new bill has widened the legal definition of Gender Reassignment slightly to '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 physiological or other attributes of sex.' This has removed the need for that gender reassignment to require medical supervision.

The Equality Bill also requires public authorities to make attempts to improve the equality of opportunities between transsexuals and non-transsexuals; and to eliminate transphobic discrimination and harassment towards, not only transsexuals, but those associated with them such as friends and family, those who might have a different type of transgender or intersex identity and those who are perceived to be transsexual.

Together with the Gender Recognition Act, the new Equality Bill will put further pressure on employers to be more explicit in their fair practice in regard to transsexual people.

Top Tips

- Be proactive and start researching positive employers as early as possible. Specifically look at a company's equal opportunity policy (ask the human resources departments for more information). Look especially at employers who have specific references to gender reassignment or gender identity policies already in place.
- Use supporting agencies if and when you need them. Don't be afraid to approach them and ask for advice or help. For example Press for Change (www.pfc.org.uk) or the Gender Trust (www.gendertrust.org.uk).
- Be positive in your campaign to secure and maintain employment. Self-marketing is an exercise in self-promotion. Think about the many hurdles you have overcome (or will overcome) to achieve the lifestyle you desire and, where appropriate, use examples to evidence your competencies.
- Know the law. It is there to protect you, if needed.
- Acknowledge that discrimination can exist. Your situation may be one that some people are ignorant of but discrimination is illegal and can be challenged. If you are unsure of what your rights are or what to do in certain situations talk to supporting bodies, such as the Equality and Human Rights Commission (www.equalityhumanrights.com).
- It is your decision whether you wish to disclose your situation. You do not have to, but it is worth thinking about the pros and cons in doing so.
- If you do wish to disclose your situation, work with your employer to decide how you wish to deal with it and who you want to disclose to; they have a duty to support you.
- If you are transitioning within the work place ensure you discuss with your management how you would prefer to handle the situation and agree a process that suits you.

Case studies

Carol obtained a health and human sciences degree from the University of Sheffield in 2004. She transitioned during her studies and now works as an equality and diversity consultant.

I graduated from the University of Sheffield with a BMedSci (Hons) in Health and Human Sciences and transitioned during this time. I have since gone on to become self-employed working as an equality and diversity consultant for a range of different organisations. I work training groups such as charities, universities and the police about trans issues and best practice surrounding equality within the workplace.

Whilst at university I received full support from my tutors, fellow students and a dedicated student support worker.

During my transition, time at university and also during my working life both in my role as a consultant and also as a volunteer with both Age Concern and the Racial Equality Council I have suffered very little discrimination.

The only issue I had was at college before I started university I was told I had to use the disabled toilets instead of the ladies. I refused and told Health and Safety that being transgender is not a disability and that all trans people have the right to single sex facilities for the gender in which they present. If you do suffer any type of discrimination it is best to seek help from a support advisor, professional body or organisation. It is important to inform the right people about any discrimination or transphobic bullying that you may encounter so that it can be tackled quickly and effectively.

JP received her sociology degree in 2006 and is a youth and play worker at her local council. She is, and will remain, a legal female but presents her gender as male.

I studied Sociology with Social Psychology BSc at Loughborough University and I am currently a youth worker and play worker for Bury and Bolton Metropolitan Borough Council with children and young people aged five to 19 years old.

My employers are fully aware that I am a legal female who presents resembling something more like a teenage boy, this isn't something I could keep discreet if I wanted to, as I haven't legally changed my name or gender – and I have no real desire to, and don't wish to be pressured into. I am aware that this isn't a common situation but it certainly shows diversity within the trans community.

To my knowledge I have not received discrimination at university or in the workplace. I have not legally changed my name or gender, however I do specify on diversity monitoring parts of job applications that my gender is trans/genderqueer, and I draw on my own box and tick that rather than male/female boxes. However, I have often been aware when attending interviews or being introduced to new colleagues or clients by my legal (female) name that some of them raise an eyebrow and seem a bit disturbed by the fact that someone who looks like me can have an obviously female name. If people are in a similar position to myself I would suggest that it is more important to be comfortable, relaxed and confident in interviews and present yourself rather than try to present as something that makes you uncomfortable – as that isn't going to be productive. If you do experience some kind of discrimination in the workplace there are plenty of people and organisations out there who are there to help you; you just need to look for them. Consider joining a national union or a local diversity consultation forum. Both Queer Youth Network and Gay Youth UK are also your allies, if you are aged 25 or under.

If you are transsexual and living in the gender opposite to the one you were given at birth legally, then there are more laws to protect you in the workplace.

Contacts and resources

Jobs and Work

Equality and Human Rights Commission
www.equalityhumanrights.com

Unison
www.unison.org.uk

Reference

The Equality Bill (April 2009), www.equalities.gov.uk/PDF/FrameworkforaFairerFuture.pdf

The Gender Equality Duty
www.opsi.gov.uk/si/si2007/uksi_20070741_en_1

Gender Recognition Act 2004
www.opsi.gov.uk/acts/acts2004/ukpga_20040007_en_1

Sex Discrimination (Gender Reassignment) Regulations (Northern Ireland) 1999
www.opsi.gov.uk/sr/sr1999/19990311.htm

The Sex Discrimination (Gender Reassignment) Regulations 1999
www.opsi.gov.uk/si/si1999/19991102.htm

Sex Discrimination Act 1975
www.opsi.gov.uk/acts/acts1975/pdf/ukpga_19750065_en.pdf

Genuine Occupational Qualification (GOQ)
<http://gov.im/lib/docs/dti/employmentRights/guides/goqempguide.pdf>

Advice, Policy & Research

The Beaumont Society – the largest and longest established transgendered support group in the UK,
www.beaumontsociety.org.uk

Depend – An organisation offering free, confidential and non-judgemental advice, information and support to all family members, spouses, partners and friends of transsexual people in the UK.
www.depend.org.uk

FTM Network – advice and support for female to male transsexuals, transgender people and their families. www.ftm.org.uk

Gender Recognition Panel, www.grp.gov.uk

The Gender Trust – supporting all those affected by gender identity issues
www.gendertrust.org.uk

Gendys Network – a network for all who have encountered gender identity problems
www.gender.org.uk/gendys/aboutgd.htm

Gender Identity Research and Education Society – information for trans people, their families and the professionals who care for them.
www.gires.org.uk

Press for Change – a political lobbying and educational organisation, which campaigns to achieve equal civil rights and liberties for all trans people in the United Kingdom, through legislation and social change.
www.pfc.org.uk