

# The Workplace and Gender Reassignment



**A guide for staff and managers**

**March 2016 interim revised edition**

**subject to Civil Service Employee Policy Review**



**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.**

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# Foreword

**“This guide is an excellent document for everyone in the business. It is comprehensive, authoritative and powerful. In my view it is required reading for everyone who works with a transgender or intersex colleague and 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 would particularly like to thank a:gender both for producing it and for all of the great work they do to supporting colleagues throughout the Civil Service.”**



**Sue Owen**  
**Permanent Secretary**  
**Department of Culture,  
Media and Sport**  
**Civil Service LGB&TI  
Champion**

**“This is an educative guide that recognises the importance of supporting Trans and intersex colleagues in the workplace. CS Employee Policy look forward to working with a:gender to ensure that the Civil Service continues to be a best practice employer in this area.”**



**Alison Stanley**  
**HR Director**  
**Civil Service Employee Policy**

# Introduction

This document has been subject to review in March 2016. It has been compiled to provide general guidance and advice to staff and managers about transsexualism, gender reassignment and intersex issues that are relevant to civil service employees. It also provides the recommended absence policy which complies with The Equality Act 2010 Public Sector Duty.

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 the financial remuneration are all vital considerations for all. These few examples are in no way diminished for transsexual people. However trans people all too often experience severe social stigmatisation through non-acceptance in the general workplace, whilst simultaneously having a particular need of that employment in order to meet the specific requirements of The World Professional Association for Transgender Health (WPATH) "Standards of Care" applied to their treatment. Notwithstanding the need to fund those gender reassignment treatments that are not necessarily available from state run or private health insurance schemes. 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 is likely to 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. Later, the 2004 Gender Recognition Act provided a further milestone in this climate of change affording some transsexual people, but by no means all, legal rights that had previously been 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.

Assistance for transsexual and intersex individuals and their managers / colleagues is available from a:gender (the Civil Service support network which supports those permanently 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 any feelings of isolation via direct advice from, and contact with, other transsexual and transgender staff on a personal basis, and at confidential Members’ meetings. A manager should facilitate a transsexual person’s wish to engage with a:gender in such ways in order to promote the individual’s wellbeing. A logical first step is to agree a main point of contact who will manage the transition from the employer’s perspective. This may possibly be senior local manager and will act to avoid repeated explanation of the issues by the transsexual employee and to ensure there is a co-ordination of actions taken.

# Terminology

**Gender:** Gender consists of 2 related aspects; *gender identity*: A person's internal perception and experience of their gender; *gender expression*: The way a person behaves and lives in society and interacts with others, based on their gender identity, to live within the binary gender role (male or female) recognised by society.

Acquired or affirmed gender is used to describe the person's gender role after reassignment.

**Gender Identity:** Gender Identity describes the psychological identification of oneself, typically, as a boy/man or as a girl/woman, known as the 'binary' model. There is a presumption that this sense of identity will be consistent with the, respectively, male or female sex appearance. Where sex appearance and gender identity are congruent, the terms **cisgender** or **cis** apply.

However, some people experience a gender identity that is somewhat, or completely, inconsistent with their sex appearance; or they may regard themselves as gender neutral, or non-gender, or as embracing aspects of both man and woman and, possibly, falling on a spectrum between the two. Some people self-identify, and may reject the concept of binary tick-boxes, preferring to describe themselves in non-binary, more wide-ranging, open terms such as pan-gender, poly-gender, third gender, gender queer, neutrois and so on. Pronouns he/she, his, hers, may be replaced with more neutral pronouns such as: they, zie, or fey; and the title Mx maybe preferred to Mr, Mrs, Miss or Ms.

**Sex:** Sex refers to the male/female physical development – the phenotype. In an infant, the sex is judged entirely on the genital appearance at birth, but internal reproductive organs, skeletal characteristics and musculature, and the brain, are all sex differentiated. Other factors such as karyotype (chromosomal configuration) are seldom tested unless a genital anomaly is present. There is a presumption that an apparently male infant will identify as a boy, and vice versa.

**Gender role:** The gender role is the social role – the interaction with others which both gives expression to the inner gender identity and reinforces it. Despite the greater gender equality in modern Western culture, e.g. education, work and social presentation, there is still stereotyping specifically in terms of male or female. Any significant departure from stereotypical gender expression often causes anxiety and discomfort in those who witness it. Their own discomfort may be reflected back on gender nonconforming individuals, causing a continuous source of stress in social situations.

**Gender Dysphoria:** This 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. Where conforming to society's cultural expectations causes an individual persistent personal discomfort, it may be described as gender dysphoria. **This is a recognised medical condition.** When individuals seek to overcome this discomfort by living in the role that is congruent with their gender identity, ongoing stress may be experienced because of the adverse reactions of others towards people whose gender expression does not reflect their sex as assigned at birth.

Dysphoria, in trans people can include some level of disgust with the sex characteristics, since these contradict the inner sense of gender identity.

**Gender Reassignment:** Those undergoing transition permanently usually have gender reassignment surgery to bring the secondary sex characteristics; breasts and genitalia, more in line with the gender identity. 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, but is not mandated to undergo, medical interventions such as counselling, psychotherapy, hormone therapy or surgery, but does not have to. Such surgery is sometimes referred to as Gender (or sex) confirmation treatment. The term “sex change” is not considered to be appropriate or polite. Other surgeries such as facial feminising and body contouring may be chosen, but these are not usually provided on the NHS.

**Transsexual:** transsexual people are those who fall within the definition of people with the protected characteristic of gender reassignment. In law, a transsexual person is someone who ‘proposes to undergo, is undergoing or has undergone gender reassignment’ (Equality Act 2010). For some, this will involve medical intervention to adjust the appearance so that it aligns with the gender identity, and is often associated with changes to the gender role and expression, as well as names and pronouns. These changes may alleviate much or all of the discomfort. The term transsexual is specific, and does not include non-binary identities. The word ‘transsexual’ should be used as an adjective, not a noun. It is, therefore, never appropriate to refer to an individual as ‘a transsexual’, or to transsexual people, as ‘transsexuals’. The abbreviation ‘tranny’ is also unacceptable. The terms ‘transsexual’ and ‘transsexualism’ are often replaced with terminology, such as ‘transgender’ and ‘trans’ (see below). However transsexual and transgender are the recognised terms used in legal and medical documents.

**Transgender:** (often abbreviated to “trans” or TG). ‘Transgender’ has had different meanings over time, and in different societies. Currently, it is used as an inclusive “umbrella” term describing all those whose gender expression falls outside the typical gender norms. It is often the preferred term for those who change their role permanently, as well as others who, for example, cross-dress intermittently for a variety of reasons including erotic factors (also referred to as transvestism). Those who live continuously outside gender norms, sometimes with, and sometimes without, medical intervention are covered by this term.

There is a great deal of difference between say, drag artists and people who change their role permanently. There are nonetheless areas in the transgender field where the distinctions are more blurred; for example, someone who cross-dresses intermittently for some years, may later change fully to the opposite gender role.

Non-binary gender identities also fall under this umbrella term.

**Trans men and trans women:** The expression ‘trans’ is often used synonymously with ‘transgender’ in its broadest sense. Recently the use of the asterisk has become an additional symbol of inclusion of any kind of trans and non-binary gender presentation – hence **trans\*** person.

‘Trans men’ are those born with female appearance but identifying as men; and those born with male appearance but identifying as women may be referred to as

'trans women'. The terms may also be used to imply a direction of travel, towards a more masculine or feminine gender expression, rather than a complete transformation of a person's gender status. Many trans people, having transitioned permanently, prefer to be regarded as ordinary men and women, and therefore, cisgender. In these cases, where it becomes essential to refer to their pre-transition status, the phrase 'woman (or man) of trans history' may be used.

**Transition:** Transition is the term used to describe the permanent full-time adaptation of the gender role in all spheres of life: in the family, at work, in leisure pursuits and in society generally. A few people make this change overnight, but many do so gradually over a period of time, changing their presentation intermittently, and sometimes whilst undergoing early medical interventions such as hormone therapy.

Transition **does not indicate a change of gender identity**. The person still has the same identity post transition; the changes are to their gender role, gender expression and sometimes their sex characteristics, to bring these in line with their identity. Usually a period of not less than 12 months living full-time in the gender role that is congruent with the gender identity is currently required before genital surgery is undertaken. This is very much managed on a case by case basis and so individual time living full time in the gender role can vary significantly.

Transition in non-binary individuals is more likely to be a shift in gender presentation, rather than a complete change of role; it may or may not include medical intervention.

**Affirmed Gender:** The process of bringing the gender role and appearance into alignment with the gender identity, 'affirms' that identity. Thus the term 'affirmed' gender, is now becoming more common in describing the post-transition gender status. 'Affirmed' should be used in preference to 'acquired'; the latter is the language of the Gender Recognition Act, and is more appropriately used to describe the acquisition of a Gender Recognition Certificate and new Birth Certificate (see section on Gender Recognition Act).

**Gender variance/gender nonconformity:** It is now understood that gender identity, although powerfully influenced by the sex of the genitalia and the gender of rearing, is not determined by these factors. There is evidence that sex differentiation of the brain is inconsistent with other sex characteristics, resulting in individuals having a predisposition to develop a gender identity that is not typically associated with the assigned sex. They may dress and/or behave in ways that are perceived by others as being outside typical cultural gender expressions; these gender expressions may be described as gender variance or gender nonconformity.

**Intersex:** There are a number of intersex conditions (renamed Disorders of Sex Development – a clinical description now used within the NHS that is rejected by many people in the UK). In some intersex conditions, the appearance at birth is atypical being neither clearly male nor female. The sex (male or female) assigned, and the anticipated gender role (boy or girl) assumed at that time, may not be consistent with the core gender identity and may, therefore, result in a need to change the gender role at a later stage. In addition, some of these individuals may have had surgery neo-natally to create (usually) a female appearance. This surgery may have a disastrous outcome, since the individual may, in fact, identify as a boy. This occurs in many individuals treated in this way. Surgical intervention before the

individual is able to give informed consent is now regarded, by many, as unethical but still happens today.

Inconsistencies in development may be associated with atypical sex chromosomes such as Klinefelter syndrome (XXY), Jacob's syndrome (XYY), or atypical combinations of 'X' and 'Y', such as XXYYY, XYYY and so on, including mosaicism (more than one chromosomal configuration in the same individual). Genetic anomalies that are particularly associated with unusual genital appearance are: Androgen Insensitivity Syndrome, Congenital Adrenal Hyperplasia, 5 $\alpha$  reductase or 17 $\beta$  Hydroxysteroid Dehydrogenase (HSD) deficiencies.

Most of these conditions, are associated with unusual pre-natal hormone levels. Other conditions such as Cloacal Extrophy may be included in this group since babies with this condition may have poor genital development, which has led to male (XY) babies being surgically assigned as girls.

**Sexual Orientation:** Sexual orientation is a **separate issue** from gender identity. Sexual orientation is associated with the sexual attraction between one person and another. This is quite different from the internal knowledge of one's own identity. Trans people may be gay, straight, bisexual or, occasionally, asexual. Their sexual relationships may remain the same through the transition process or, sometimes, they shift. So a person who is living as a man, and is in a heterosexual relationship with a woman may, having transitioned to live as a woman, continue to be attracted to women and seek a relationship with a woman – or – may be attracted to men, and therefore seek a relationship with a man.

Sometimes trans people make lasting relationships with other trans people, so the possibilities are many and varied, and do not necessarily fit comfortably into typical categorisations of sexual behaviours. Those who remain in a long-term relationship, despite one partner having transitioned cannot be categorised by any existing terminology, since the sexual orientation of the non-trans partner does not change; the orientation of the trans partner may or may not shift, as described above. Sometimes, for clarity, the terms: androphylic (attracted to men); and gynaephylic (attracted to women) may be used.

### **Acknowledgement**

The above information includes terminology copied with the kind permission of GIRES, Gender Identity Research and Education. [www.gires.org.uk](http://www.gires.org.uk)

# Part I: Setting the context

## Definition

Transsexualism is the manifestation of gender dysphoria at its most extreme, whereby there is an overwhelming, and 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 but not exclusively accompanied by treatment that can include hormone administration and surgery to reassign the sex characteristics of the body into alignment with the individual’s 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”, and forms 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 into a region in the hypothalamus area of the brain showed that in male to female (MTF) transsexual people this region was of female size or smaller (Van Gooren et.al.).

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 seen therefore as innate and not acquired or adopted. It cannot be “cured” by psychological or psychiatric treatments alone, although psycho-social factors may play a role in the success or failure of the outcome. While the process of gender reassignment does not now 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.

It's not known exactly how many people experience gender dysphoria, because many people with the condition never seek help. A study carried out in Scotland in 1999 found that around 1 in every 12,500 people may have the condition, although some people believe this is a significant underestimate. A survey of 10,000 people undertaken in 2012 by the Equality and Human Rights Commission found that 1% of the population surveyed was gender variant, to some extent (source NHS 2014 ((review due 2016))). 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 continued increase in the number of cases being referred to Gender Identity Clinics.

**Sexual orientation** as already described (see definitions) 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 are 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, or 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, transgendered 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 the LGB and T creates between sexual orientation and gender identity, and therefore 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 their gender reassignment journey.

## **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 temporarily 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. Indeed, it is not so long ago that aversion treatment in the form of electro-convulsive therapy was employed by the medical profession as a considered treatment for this “condition”; with a reputed 0% success rate, but a staggering 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 / suicide. 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.

The May 2013 EU on-line LGBT&T survey of 93,000 European participants, revealed that some 35% of transgender respondents had been attacked or threatened with violence within the past five years. Additionally, 29% said they had suffered discrimination at work or whilst seeking employment.

## **Treatment**

Medical treatment to enable transsexual people to alter their bodies to match their core identity has been highly effective with around a 98% success rate. Definitely a case of “Je ne regrette Rien”.

**Indicative Treatment timetables** in typical male to female (MTF) and female to male (FTM) cases are to be found at Annex C. Please note that these timetables only serve to provide an indication of possible treatment timescales as waiting times can vary and also that treatments are referred on a case by case basis. 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, Exeter, Northumberland, Northampton, Nottingham and Sheffield (2015 NHS). Many Care Commissioners or their equivalent authorities contract refer to Charing Cross clinic in London despite having a nearer centre. 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 insists 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 and to start the Real Life Experience (RLE), in which the individual lives “full-time” in the acquired gender.

Alongside the RLE, the individual may undertake a range of treatments in order to achieve their physical gender reassignment.

# Part II: Intersex

The term intersex was adopted by science in the early 20th century and applied to human beings whose biological sex cannot be classified as clearly male or female. An intersex person may have the biological attributes of both sexes or lack some of the biological attributes considered necessary to be defined as one or the other sex.

Intersex is always congenital and can originate from genetic, chromosomal or hormonal variations. It may be a combination of all three elements. Environmental influences such as endocrine disruptors can also play a role in some intersex differences.

Intersex is a perfectly naturally occurring variation of human development, clinical interventions still occur today with the main reason for it being a need to minimise family concern and distress that society presently places on parents by only tolerating the binary sexes namely boy or girl. Surgical interventions generally focus on appearance, and not sensation or sexual function.

Most people born intersex identify as men or women and feel no reason to voluntarily alter their bodies to fit the male / female binary blueprint.

Intersex is not about sexual orientation. People with intersex variations have as diverse a range of sexual orientations as non-intersex people. Neither is Intersex about transition or gender identity; Intersex people have as varied a range of gender identities as non-intersex people.

Intersex variations are always inborn and can originate from genetic, chromosomal or hormonal variations. Environmental influences such as endocrine disruptors can also play a role in some intersex differences. Although the term Intersex is not applicable to situations where individuals deliberately alter their own anatomical characteristics (Transgender / Transsexual), treatments may often be the same or similar and therefore time off may be required the same way as for someone undergoing gender reassignment (see annex C(i)).

## Current legislation

Under the Equality Act 2010, Intersex is not specifically a protected characteristic. Currently there is no legislation that specifically protects Intersex people. Presently the situation is that the sex that has been recorded on an Intersex colleague's birth certificate determines what protection applies to that individual. However this potentially may not offer full protection if the individual is of ambiguous sex.

The implications on equal rights for Intersex people are complex and can force them to either hide the fact that they were born intersex and therefore silently denying them the right to be who they truly are or force them to identify as transgender to be given protection under the EA 2010.

Dependant on how the act is interpreted in relation the protected characteristic of "sex", the Equality Act 2010 states:-

(a) a reference to a person who has a particular protected characteristic is a reference to a man or to a woman;

(b) a reference to persons who share a protected characteristic is a reference to persons of the same sex.

## **Health and Social Issues**

Intersex people have health issues arising from their difference. They may also have medical needs that arise directly from early medical interventions they have been subjected to. Examples include, but are not limited to:

- feeling and being different
- not fitting into the binary gender society expectations
- complications over personal relationships
- not being able to be a biological mother or father
- subjected to comments regarding genitalia
- subjected to comments about appearance such as excess body and facial hair, voice, size, male pattern baldness which can necessitate needing to wear a wig
- being excluded from certain activities and clubs where the activities are based around being either male or female
- the trauma of undergoing gender tests which can involve up to 17 tests managed by an endocrinologist. The process can also involve long-term appointments with gynaecologists and dermatologists depending upon individual needs. This process apart from being time consuming can have a detrimental psychological impact

## **Statistics**

Intersex people represent a significant percentage of the global population, ranging from 1.7% (Anne Fausto-Sterling, sexologist, 2000) to 4% (various authors). As there are currently 412,000 Civil Servants on a full-time equivalent (FTE) basis and 447,000 on a headcount basis (source Gov.UK 8 April 2015) it is reasonable to argue that we have potentially between 7,800 and 17,880 intersex colleagues.

# Part III: Current legislation

## 1. Equality Act 2010

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

Specifics of the Act

**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, direct discrimination (section 13) 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 direct discrimination; however, even if she is treated in the same manner, indirect discrimination may still arise if an apparently neutral policy, rule, practice or guideline is applied generally but particularly disadvantages transsexual people.

**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.

## 2. 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 meets all of the following criteria:

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

### **If you are married ([Applying for a Gender Recognition Certificate - GOV.UK](#))**

You can stay married if you apply for a Gender Recognition Certificate, unless your marriage is registered under the law of Northern Ireland.

You and your spouse must fill in a statutory declaration saying you both agree to stay married. You’ll get an ‘interim certificate’ if you or your spouse don’t want to remain married, or if neither of you fill in a statutory declaration.

You can use the interim certificate as grounds to end the marriage. If you live in England or Wales, you’ll only get a full certificate once you end your marriage.

If your marriage was registered in Scotland, you can use an interim certificate to apply to the sheriff court for a full certificate. You don’t need to end your marriage first.

**Contact the administrative team at the Gender Recognition Panel if either you or your spouse change your mind about staying married during the application process.**

### **If you are in a civil partnership ([Applying for a Gender Recognition Certificate - GOV.UK](#))**

You must end your civil partnership or convert it to a marriage if it was registered in England, Wales or Scotland. You can’t convert your civil partnership to a marriage if it was registered anywhere else.

If you decide to convert your civil partnership into a marriage you must do it before you apply to the Gender Recognition Panel.

### **If both you and your civil partner are applying for gender recognition**

Apply at the same time as your partner - tell the administrative team your applications are linked. You may both be granted full certificates on the same day if your civil partnership was registered in England, Wales or Scotland.

### **Northern Ireland**

You can only get an interim certificate if your marriage or civil partnership was registered in Northern Ireland.

It should be noted that surgical intervention/gender reassignment surgery is now 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. **Specifics of the Gender Recognition Act 2004**

**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, a person acting in the course of business or in 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.

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 purposes of prevention or investigation of crime.

### **3. Data Protection Act (1998) and 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.

## 4. Northern Ireland legislation

It is important to note that the Equality Act 2010 only applies to England, Wales and Scotland.

At the time of publication of this guide (March 2016) Northern Ireland operates under variants of older UK legislation, with Sec 75 promoting equality by Public Bodies.

Section 75 Statutory duty on public authorities' states:

(1) A public authority shall in carrying out its functions relating to Northern Ireland have due regard to the need to promote equality of opportunity—

(a) Between persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation.

The EA 2010 does not apply in any form to colleagues based in Northern Ireland and so they therefore must abide by the current NI legislation.

# Part IV: Issues

## 1. Privacy

Living our lives with labels attached is something with which we all have to contend. Being labelled as “Freda Bassett, Deputy Director” or “Michael Ansun, father of 2” is of no contentious consequence in terms of gender identity. However, being labelled “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.

Nevertheless, just like other employees, those whose change of gender is known within their immediate circle, 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 its apparent rarity. Yet for the transsexual person, it is their life; one made all the more demanding if up for widespread scrutiny, judgement and comment. A change of gender is not a fanciful whim or lifestyle choice, but a response to a medical need.

Respect for privacy and freedom from workplace gossip, including the unnecessary broadcasting of 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 disclosure “knife-edge” for a life in the proverbial “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 essential 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 Independent Press Standards Organisation (IPSO). Both Trans Media Watch and All about trans monitor 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.

Section 22 Gender Recognition Act 2004 created an offence where a person discloses "protected information". This is information acquired in an official capacity (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, without the 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" - nor "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 ensure that their gender history is clearly established as "protected information". Such information cannot be shared by the person with colleagues except within the specified exemptions to section 22, such as the individual's explicit consent.

### **Best Practice**

It is not possible to hold a GRC until two years "post-transition" and, even then, valid reasons may exist for some transsexual people not to apply for legal recognition in their acquired gender. It is however best 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 and references**

### **Previous names**

When a transsexual person applies for a job, a potential employer may ask for disclosure of former names and previous 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 to show their new name and acquired gender only, then details of former employers can be openly given. It may be however that those 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 / intersex people (positive action), consideration should be given on job advertisements that their applications from transsexual applicants are welcomed. Recruitment agencies should be reminded of the requirements of the Equality Act 2010 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 detail 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 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 (2004), perhaps for security vetting purposes, then it must be made explicitly clear on the application form. This would be 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 (1974).

It is then vital that the employer realises their legal and moral obligation to 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 the required information, and details which will allow cross-checking, direct to a secure contact. This is similar to the process put in place by the Disclosure and Baring Service in relation to DBS checks.

If DBS 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 who doesn't want to reveal details of their previous identity to a potential employer the opportunity to take advantage of the DBS confidential checking service.

### **Voluntary disclosure**

The transsexual 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, they may need to contact their pension provider to inform them of their legal (birth) sex if this is relevant for pension purposes.

## **4. Informing management and 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 remember best practice is to assume all transsexual employees 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 absolutely necessary. If a transsexual person has informed their employer of their intention to undergo gender reassignment, they are fully protected by the Equality Act (2010).

The individual may well have kept their gender identity secret for many years and, while convinced of their need for transition, may be daunted by the seemingly insurmountable obstacles to be 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 substantial anger and rejection in their home environment.

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 if this is an option however the employee must be agreeable to 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.

## **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 be able to provide assurance that the employer will be supportive, and that discrimination against, or harassment of, transsexual employees is not tolerated. 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.

## **Support**

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 F. The Equality and Human Rights Commission (EHRC), also publish useful guidance for both employees and employers. Their helpline has now been replaced by The Equality Advisory Support Service (EASS) who can now deal with individual queries.

## **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, 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 C (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 and Internal / External Stakeholders**

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 however the sensitivity of the information should always be kept in mind and the use of OFFICIAL SENSITIVE marking would be appropriate. Annex E contains an example used by an a:gender member.

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 to be conveyed by management, it must be at a time agreed by the individual, and conversely 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 of transsexual co-employees during or post the disclosure process, in general awareness raising or providing explanations of relevant issues, in addition to 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, what their responsibilities are, 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 actions.

### **Time of transition**

At the point of transition, some transsexual people prefer to take a brief break to prepare to return to work in the acquired gender. During this period the 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 section 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 a feeling of obligation 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 then rather than await the development of bullying and harassment.

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 a manager needs to be aware of this factor.

## **5. Record changing / Retention / Access and monitoring**

On entering employment, a transsexual person may have disclosed information relating to previous name and gender. 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 (1998) and the Gender Recognition Act (2004).

It is inevitable within most organisations that records and references relating to an individual staff member are held in a number of locations eg Pensions, Shared Services and locally. 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 a 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.

Neglecting this important process can therefore result in unlawful disclosure and cause extreme anxiety in transsexual employees. All possible steps should be taken to guard against this from initial transition onwards. It is safest to treat all such information as "protected information" under the terms of the Gender Recognition Act, whether or not the person possesses a Gender Recognition Certificate, not least because the public sector equality duty conveys a duty to implement measures that ensure confidentiality in respect of all 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 as one example may need to do so as pension records may need to retain a note of birth sex but this should not prevent correspondence showing the acquired gender. Continued use of the previous gender and name is likely to be discriminatory.

Where retention can be properly justified, access to these records must be restricted to staff who require such information for the performance of their specific official duties. "Need to know" is insufficient reason to disclose "protected information" without the express and specific consent of the individual for that particular purpose. Breaches of confidentiality can have a serious impact on a transsexual employee, may lead to action under the Data Protection act, 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", 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, IT address lists with reference to the person, team email lists, 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 details. The appointment of nominated "Gender Reassignment Officers" to manage and coordinate the change process may be beneficial in again avoiding the need for the transsexual person to explain themselves repeatedly.

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.

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.

### **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. Although departments may in future start to monitor Trans People and Issues in the workplace there is absolutely no obligation for individuals to either take part or disclose their trans history unless they feel comfortable doing so. All data gathered will need to be managed in accordance with Data protection requirements and other relevant legislation.

## **6. Pensions**

### **State Pensions and 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 any 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.

### **My CPS**

It is the responsibility of the individual member of the MyCSP to contact their pension administrator and inform them of their gender transition, the name and title by which they wish to be known, any change in their marriage or civil partnership status and when gender recognition was 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 this behaviour remotely acceptable. The Equality Act 2010 affords legal protection to transsexual staff from overt harassment and bullying.

Furthermore, 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 that 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 in any way 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 maybe 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 trans phobic attitudes may require management intervention, anti-harassment or disciplinary measures, coupled with management’s 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 include this 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. For example:

- 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 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, wishing to remain in a public facing role, may appreciate discreet support, at least at first. Conversely, others may lack initial confidence for such a role 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.

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, the 2010 act stipulates a person is no longer required to be under medical supervision - so a person who decides to live permanently in the opposite gender, and whether completes or forgoes any medical procedure, is still protected by the act. Therefore post transition, it would be humiliating, inappropriate and undermining to expect a person in their acquired gender to use toilet facilities of their birth sex or indeed be restricted to the use of the accessible toilet.

Any continued objection or inappropriate comments by work colleagues to the use of the facilities appropriate to the gender of transition should be seen as unreasonable (discriminatory) and should be met with communication, discussion and education before the situation gets out of hand. 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 provided 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.

The Equality Act 2010 allows an “occupational requirement” exception if an employer can illustrate a requirement not to be a transsexual person as being 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 may need a number of different medical interventions requiring 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 recommends 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. This allows the transsexual person to complete the gender reassignment process without such absence counting towards performance or pay trigger points. Without this process 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 process.

Gender reassignment is not a “sickness” and the transition at work process can be managed by the manager and the employee to a successful outcome. Its 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 that you are a serious “equal opportunities” employer.

### **Confidentiality**

Staff who transition in the workplace to start their gender reassignment journey will inevitably become “visible” to those they work with. However it must be remembered that some will also require necessary absence from work before the point of becoming 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 nor should it be passed on to any new line manager 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 could 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. Reasonable adjustments should be considered in the application of any poor performance procedures.

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. Examples include:

- use of telephony – some trans people experience challenges regarding the way they sound not ‘matching up’ with their name
- customer facing roles

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 those 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 D contains two individual examples of the process undergone by both 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 an 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. Failure to attend even once 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 the techniques learned in therapy. The individual may be self-conscious of their efforts to adapt their voice in the workplace, and 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 for some while.

### **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. Appearance 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 the 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 feelings 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 however,

frequent blood tests are undertaken to monitor ongoing health and associated appointments with an endocrinologist may be required.

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.

## **Surgery**

Not all transsexual people undergo gender reassignment surgery for a variety of reasons. It is complicated, painful and accompanied by the risk of debilitating complications - some individuals may also be physically unable to undergo surgery for health reasons. Each individual decides, usually with medical assistance, whether it is possible or 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, and usually the most ridiculed, 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) whilst maximising the individual's confidence in their acquired gender, it is a tremendous help in the resolution of their gender dysphoria.

Prior to such surgery, it is often the case that the individual will undergo procedures to remove hair growth from donor tissue to be used for genital reconstruction. Failure to address this may render the surgical outcome unsatisfactory for the individual and raise the potential to be a cause of future serious infections.

## **14. Return to work after surgery**

### **Initial Return Date**

Recovery from genital reconstructive surgery can take up to approximately three months depending on the treatment necessary, although there is a small possibility, as with any major treatment, complications may result in a longer incapacity for work. Other surgery usually entails shorter periods of absence up to two weeks. Such absence, including the recovery period, should be certificated as per current guidelines (excess of seven days).

### **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 and by a possible referral to Occupational Health.

## **15. Organisational restructuring / redeployment / redundancy**

Any 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 the acceptance as men or women; as just another colleague, workmate, team member, manager, maybe friend, and therefore be worthy of just the same respect as anyone else. With an enlightened workforce, accepting of diversity and equality, this can be achieved. The alternative is them being constantly disrespected, derided and merely being seen as the “transsexual” title and not the real person.

# Annexes

## **Annex A - Background to how we reached current legislation**

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 surgery (?). 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 30th 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 he 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 **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** 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.

## **ANNEX B (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 and 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 beforehand 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 judgment. 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

## **ANNEX B (ii) The personal account of a transsexual man and civil servant a transman's experience**

My mum waited 8 years to have a little girl and I was in constant battle with her from the age of 4 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 8, 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 LGB&T 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 walk 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 my 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 between 2 and 8 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 2 Gender Identity Specialists to receive a diagnosis of gender dysphoria. This involved 2 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 at work 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 changed 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.

## **ANNEX B (iii) The personal account of a transsexual woman and civil servant**

### **Megans Story**

I wanted to share my experience of good practice in the Civil Service, as I feel it is a shining example of how an employer and its staff can embrace the diversity of a team member. I joined in October 2005 as a Trainee Probation Officer. After I qualified in 2007 I went on to work in the midlands field teams and Magistrates Courts, building good relationships with many staff and service users alike. I was promoted to Senior Probation Officer in 2011 and love working for the Probation Service. Whilst it was onwards and upwards at work, I had been constantly distracted by an internal struggle because I am transgender. Without going too much into the history of an intensely personal subject (and a long story!), I had managed to keep my gender identity hidden in the work environment for 6 years, predominately for fear of how I would be perceived as a trans woman. As I understood it, there was no openly trans persons in my work area and I was anxious that, particularly being the first coming out, things may not go smoothly.

Towards the end of 2010, I came to terms with the fact I had no choice but to come out and move forward with my life as I couldn't live any longer as I was. I approached the Diversity Manager, who immediately offered her full support and we put together a plan for me to transition at a pace that I would set. We involved the HR manager, and liaised with the Director of Executive Services who were both sensitive and committed to helping me move forward. Over a period of months we met regularly, sometimes to work out logistics, but often just for support and a friendly chat. At a time when I was vulnerable and fearful, they were always available, non-judgmental and most importantly; kept my impending transition confidential. This helped me to focus on the day job.

The Civil Service helped my transition by facilitating a move to a short term role for six months, giving me space to adjust, and supported me when I needed to attend medical appointments. We decided together when and how to tell colleagues directly affected by the move and this too went smoothly. I took 3 weeks off annual leave in August 2012 after leaving one post and returned on Monday 3 September 2012 to my new role as the person I have always been. Since then I returned to the field, led a successful team of Probation Officers in a busy inner city office and have now moved to a new role as Equality Manager, covering the Midlands, for the National Probation Service. I contribute to my trade union on trans issues and I'm a regional Co-ordinator for Lesbians and Gay people in Probation (LAGIP).

I had lived in fear of what my colleagues would say prior to my transition but in reality people were very supportive. Strong policies, good communication from managers and raising staff awareness of gender diversity all contributed to a life affirming experience.

Megan

## ANNEX C (i) Gender reassignment / Intersex treatments absence guide

For the use of the individual undergoing gender reassignment / intersex treatments, in conjunction with their manager if they so wish.

Under no circumstances should this information be passed to anyone else without the express permission of the individual undergoing gender reassignment.

Treatments for absences as described below will be provided by NHS via a Gender Identity Clinic (GIC). However an individual may choose to use a private healthcare provider.

Periods of absence relating directly to the process of gender reassignment / intersex treatments should not always count towards attendance trigger points but should be considered on a case by case basis.

The following table shows examples of current eligibility for paid gender reassignment / intersex treatment leave, but note that you should try to arrange appointments outside normal working hours if possible. The guidance provided here applies to individuals undergoing gender reassignment / intersex treatments

### Reason for absence

	Currently Eligible for Special Leave?
1. Appointments with psychiatrists, psychologists or counsellors to: <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> <li>• assessment / counselling re psychological impacts experienced by intersex individuals</li> </ul>	<b>YES</b>
2. Appointments with healthcare professionals for: <ul style="list-style-type: none"> <li>• blood tests</li> <li>• blood pressure monitoring, hormone consultations and injections</li> <li>• endocrinologists tests (may be up to 17 tests in the case of intersex individuals)</li> <li>• gynaecologist appointments</li> <li>• dermatologist appointments</li> </ul>	<b>YES</b>
3. Appointments with healthcare professionals for a: <ul style="list-style-type: none"> <li>• general check up</li> <li>• reason unconnected with the gender reassignment reason not directly related the process of</li> </ul>	<b>NO</b>
4. Surgical interventions that will help you to live in your acquired gender and so perform your job effectively: <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</p>	<b>YES</b>

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.

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.	<b>YES</b>
6. Treatment for any illness or condition not directly related the process of gender reassignment.	<b>NO</b>
7. Hair Removal for gender reassignment and also for hormone imbalance in the case of intersex individuals	<b>YES</b>
8. Speech Therapy	<b>YES</b>

### ANNEX C(ii) Gender Transition template

Stage in reassignment process	What, who,	When ?
<b>1. Telling people about your situation. Who have you told?</b>		
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?		
<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>6. Your medical appointments and absences gender reassignment / intersex treatments</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		

<p><b>Mastectomy:</b>  <b>Pre surgery consultations</b></p> <p><b>Operation &amp; convalescence</b></p> <p><b>Post-surgery consultations</b></p>		
<p><b>Throat Surgery:</b>  <b>Pre surgery consultations</b></p> <p><b>Operation &amp; convalescence</b></p> <p><b>Post-surgery consultations</b></p>		
<p><b>Other Surgery's (please specify)</b></p>		

Annex D(i) "Indicative" 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 (GIC)).
<b>3 Months</b>	Interview with local Consultant Psychiatrist (reports to Local Health Authority ((LHA)) for tertiary referral to GIC. Intense Pulsed Light (IPL) & electrolysis facial treatments commences on a monthly basis. (Not NHS funded).
<b>4 Months</b>	LHA approve outpatient funding at GIC.
<b>7 Months</b>	First interview at GIC. (Advised to change name and commence 'Real Life Experience' (RLE). Put onto a schedule of quarterly appointments at GIC.
<b>9 Months</b>	Name changed by statutory declaration and RLE commenced.
<b>10 Months</b>	"Second opinion" interview at GIC.
<b>11 Months</b>	Hormone treatment commenced (dosage subsequently doubled and then trebled – standard prescription charges). Finasteride treatment commenced – (to be taken up until Gender Reassignment Surgery (GRS) – private prescription). Hormone treatment has to be continued for life (to guard against osteoporosis).
<b>1 Year, 11 Months</b>	Completed monthly IPL treatments and frequency of electrolysis increased to weekly. (IPL cost c £2000+ - electrolysis costs £40+ week).
<b>2 Years, 4 Months</b>	First GRS referral interview at GIC. (Successful)
<b>2 Years, 5 Months</b>	Appointment with plastic surgeon (following recommendation by GIC and referral by GP) re asymmetrical breast development
<b>2 Years, 9 Months</b>	Second GRS referral interview at GIC. (Successful) Inpatient funding by LH for GRS requested.
<b>2 Years, 11 Months</b>	Surgery to correct asymmetrical breast development at regional hospital, incorporating bi-lateral augmentation. Recovery period – up to 3 weeks. Operation not entirely successful and causing pain.
<b>3 Years, 1 Month</b>	LHA authorise funding for GRS
<b>3 Years, 4 Months</b>	Appointment with / examination by surgeon at Charring Cross hospital. (Advised waiting list of 9 months).
<b>3 Years, 7 Months</b>	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.
<b>3 Years, 9 Months</b>	Corrective surgery re breast asymmetry problem
<b>PENDING</b>	Completion of electrolysis

Annex D (ii) "Indicative" Female to Male Gender Reassignment Timetable – Part private, 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 GIC.
<b>5 Years, 1 Month</b>	First assessment with psychiatrist at GIC. Referral for GRS obtained from private psychiatrist to compare options.
<b>5 Years, 5 Months</b>	Second assessment at Charring Cross for referral for surgery.
<b>6 Years, 6 Months</b>	NHS funding authorised for phalloplasty surgery.
<b>6 Years, 11 Months</b>	Appointment with surgeon. (Advised waiting list of 12 to 18 months).
<b>7 Years</b>	Phalloplasty and 'internal removal' surgery. Recovery period 2-3 months.
<b>8 Years, 1 Month</b>	Insertion of neo-testicles and cosmetic construction of glans.
<b>8 Years, 6 Months</b>	Removal of one neo-testicle and insertion of penile erection pump.
<b>PENDING</b>	Some corrective surgery.

## **ANNEX E**

### **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

## **ANNEX F**

### **Workplace Support / Information** (Updated March 2016)

#### **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: **0787 614 5411**

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

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

Twitter: @agendergovuk

Address:

Vulcan House  
Ground Floor Iron  
6 Millsands  
Sheffield  
S3 8NU

#### **DBS Confidential Checking Service**

Email: [sensitive@dbb.gsi.gov.uk](mailto:sensitive@dbb.gsi.gov.uk)

Telephone: **0151 676 1452**

#### **Add your departmental contacts here:**

##### **Departmental Security Unit**

Telephone:

Email:

Address:

##### **Equality & Diversity Team**

Telephone:

Email:

Address:

##### **Gender Reassignment Liaison Officers**

Telephone:

Email:

Address:

##### **H.O. Pay & Pensions Service**

Telephone:

Email:

Address:

##### **Departmental staff network encompassing trans people**

Telephone:

Email:

Address:

## **ANNEX G**

### **(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 (+ Equality Advisory Support Service)**

A statutory body with the responsibility to protect, enforce and promote equality across the nine “protected” characteristics - age, disability, gender, race, religion and belief, pregnancy and maternity, marriage and civil partnership, sexual orientation and gender reassignment.

The **Equality Advisory Support Service** was commissioned by government in 2012 to replace the EHRC Helpline, which is now closed. Contact the EASS if you need expert information, advice and support on discrimination and human rights issues and the applicable law, especially if you need more help than advice agencies and other local organisations can provide.

Website: <http://www.equalityadvisoryservice.com/>

Telephone: 0808 800 008

Post: FREEPOST Equality Advisory Support Service FPN4431

#### **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 48

### **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: 01527 894 838

Address: Gender Trust, 76 The Ridgeway. Astwood Bank. Worcestershire. B96 6LX

### **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

### **Independent Press Standards Organisation**

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

24 Hour Emergency Advice: 07659 152656

Address: Independent Press Standards Organisation, Gate House, 1 Farringdon Street, London, EC4M 7LG

### **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

### **Organisation Intersex International**

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

### **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: <http://www.pfc.org.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: <http://www.equality-network.org>

Telephone: 0131 467 6039

Address: 30 Bernard Street, Edinburgh EH6 6PR

### **THE Equality Advisory and Support Service**

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

Telephone: **0808 800 0082** Text phone: **0808 800 0084**

Address:

FREEPOST EQUALITY ADVISORY SUPPORT SERVICE FPN4431

### **Trans Media Watch**

A charity dedicated to improving media coverage of trans and intersex issues.

Trans Media Watch helps people in the media to understand these issues and produce clear, accurate, respectful material. It also helps trans and intersex people who are interacting with the media to get results they are comfortable with.

Trans Media Watch want to see an end to the prejudice, bigotry and hate routinely directed at trans people and want the media to play its role - no longer fuelling these things

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

### **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)

### **Organisation Intersex International in the United Kingdom (OII- UK)**

OII-UK, for OII members, friends and allies in the United Kingdom. The OII-UK works for the right of all people born intersex to personal autonomy and bodily integrity.

Website: [oiiuk.org](http://oiiuk.org)