

# **The Workplace and Gender Reassignment**

A Home Office Guide for  
Staff and Managers

June 2007 Revised Edition

  
Home Office



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# Forewords

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

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

Between 1996 and 1999, the legal responsibility of employers to protect transsexual employees from discrimination in the workplace has been clearly established by a series of changes in legislation and test cases. The 2004 Gender Recognition Act was a further landmark in this climate of change and afforded transsexual people legal rights that had been previously denied. And now, Gender Equality Duty, effective from 6 April 2007, has placed a statutory duty on public authorities to pay due regard to the elimination of discrimination and harassment of transsexual staff. Perhaps not surprisingly given the rapidity of these changes, confusion has sometimes arisen regarding the employment rights of, and employment procedures relevant to transsexual staff. This document has therefore been compiled to provide general guidance and advice to staff and managers about transsexual and gender reassignment issues as relating to Home Office employees.

Statutory law alone cannot change attitudes, but those employers who have in place policies in pursuance of the spirit of the law and not mere observance of it, have given a clear indication of purpose. This action demonstrates that consideration has been given to the needs of transsexual persons and conveys to all staff, existing and potential, that the employer will not permit discrimination against transsexual employees.

The Home Office is an Equal Opportunities Employer and has given a clear indication that this declaration is inclusive of transsexual staff by the incorporation of the phrase 'gender identity' into the Equal Opportunities Statement. All Home Office staff, including those who have undergone, are undergoing, or are about to undergo gender reassignment, have the right to be treated with fairness and respect for their dignity and the workplace must be fair and supportive to the needs of all individuals.

I compiled this 'guide' in early 2005, from the perspective of both staff and management taking into account their respective needs and responsibilities. This is the June 2007 revised edition, which includes the consequences of new legislation, as well as recently introduced departmental policies and procedures.

**Dee Evans**

**Chair a:gender**

I endorse and recommend this well written and accessible guide. I want the Home Office and the wider Civil Service to be seen as an exceptionally good employer of transsexual, transgender and intersex staff. This guide and engagement with **a:gender** across the Civil Service will help us achieve that.

**Sir David Normington**  
**Permanent Secretary**  
**Home Office**



### **Civil Service Diversity & Equality Awards 2006**

(l to r, Rageh Omaar, Sir David Normington, Dee Evans, Hal Barraclough (**a:gender** Secretary, Sir Gus O'Donnell (Head of the Home Civil Service).

When I was in the Home Office myself, I came to have some understanding, from conversations with Dee and others, of what it means to be contemplating, be undergoing, or to have completed gender reassignment. As Civil Service Diversity Champion, I want to play my part in creating a working environment in which transsexual and transgender staff feel accepted, comfortable and valued. The key to success is better understanding among line managers and other colleagues. Ignorance is the enemy, and I commend this guide to all Home Office staff as an invaluable source of advice and information.

**Bill Jeffrey**  
**Civil Service Diversity Champion**

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Colleagues, this is a detailed well laid out guide that I commend to all managers in the Home Office. Few people truly understand gender identity issues and I am sure many managers would welcome this guide in their armoury of toolkits. The Home Office as an employer has a duty to ensure that all staff feel valued and treated with dignity and respect in the work place. It is our aim to make the department a safe environment for staff who may wish to undergo, be in the process of transitioning or have undergone gender reassignment. It is vital that we protect the privacy of those staff who may wish to keep confidential their gender identity at any stage before or after transitioning. If you are ever in any doubt about how to best support a fellow colleague and the answer to your question is not in this guide or that you need further clarification then please contact **a:gender** direct.

**Ravi Chand**  
**Head of Race and Diversity Action Team – Group HR**  
**Home Office**

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I am very pleased and proud to support and endorse this guide, which provides a comprehensive briefing for staff and managers alike on the subject of gender dysphoria and its impact in the workplace. A great deal of work has gone into updating this guide, and I would like to thank all those involved, in particular the main author, Dee Evans for her personal contribution. I believe this guidance is the most comprehensive available to civil servants and I encourage wide dissemination.

For those considering gender reassignment or making the transition, how they are treated at work can make a very real difference to their lives. As responsible managers and colleagues, we all need to understand the issues; how we can provide appropriate support and assistance; the rights of individuals concerned and our responsibilities and legal obligations. This document sets out all of these issues with clarity and professionalism, and I am proud to be associated with it.

**Gill Nicholson**  
**Deputy Director of Human Resources (Diversity & HR Strategy)**  
**Immigration and Nationality Directorate**  
**Home Office**

# Terminology

**Gender** : Gender consists of two related aspects; gender identity which is a person's internal perception and experience of their gender; and gender role which is the way that the person lives in society and interacts with others, based on their gender identity.

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

**Gender reassignment** : Gender reassignment (or realignment) is the process which is undertaken under medical supervision for the purpose of bringing the physical appearance more in line with the gender identity. This may include counselling, hormone treatment or surgery.

**Transgender** : Generally, one who belongs to one biological sex but permanently, though only partially, (possibly through hormones and some surgery) takes on the appearance of the opposite sex but elects to retain his/her original genitalia and does not desire full gender reassignment surgery. (*See N.B. below*).

**Transsexual** : One who begins life as one biological sex, then implements a self-motivated, complete transformation to appear, and behave as the opposite sex. A deep conviction is held that their gender identity does not match their appearance and/or anatomy – gender dysphoria. The transsexual person undergoes gender reassignment to bring their body into line with this core gender identity.

**N.B.** : The term 'transgender' is often used as an 'umbrella term' to include people who identify as both transsexual and transgender. Transsexual and transgender persons (as per the definitions given above) have gender dysphoria, a medically recognised condition. Confusion may arise in that the word 'transgender' may also be used with reference to transvestites. Transvestites, those who have a compulsion, or wish, to dress in the clothes of the opposite sex, do not have gender dysphoria.

**THIS GUIDE is written in relation to those who have, or have had, gender dysphoria and who effect a permanent change of perceived gender/gender identity and therefore should be seen as referring to both transsexual and transgender persons in that respect.**

# Part I: The Medical Aspect

## 1. DEFINITION

**Transsexualism**, also known as *gender dysphoria*, is a gender identity disorder in which there is an overwhelming, ongoing desire to live and be accepted as a member of the sex opposite to that 'allocated' at birth. It follows that there is a persistent discomfort with the individual's anatomical sex and a sense of incongruity with that gender role.

The process of adopting the opposite gender role is generally known as *transition* and is usually accompanied by treatment that includes hormone administration and surgery to align the body with the sense of gender as dictated by the brain – *gender reassignment (or realignment) surgery (GRS)*

The syndrome of 'gender dysphoria' was introduced to the medical community in the early 1950s by Dr Harry Benjamin and the Harry Benjamin International Gender Dysphoria Association's 'Standards of Care' are used as a basis for treatment by many clinics around the world to this day. In medical and scientific disciplines, gender dysphoria is increasingly understood to have a biological origin and is strongly associated with a neuro-developmental condition of the brain. Studies, such as those conducted by Professor Van Gooren, of a region in the hypothalamus of the brain which is smaller in women than in men showed that in M-F transsexuals this region was of female size or smaller. The view that the weight of current scientific evidence suggests a 'biologically-based, multifactorial etiology' for transsexualism is supported by articles in journals, the press and popular scientific works. Transsexualism is therefore innate, not acquired. It cannot be 'cured' by psychological or psychiatric treatments alone, although psycho-social factors may play a role in the outcome. It is a medical condition and transition to the preferred gender role, thereby confirming the individual's core gender identity, may be the only solution.

Transsexuals themselves will argue that they have always been of the gender opposite to their anatomical birth sex and that medical treatment is merely bringing their bodies into line. For many, important that such treatment is, the key moment is not so much the date of GRS but the date from when they transition permanently to 'presenting themselves' in their 'acquired gender'. Surgery is seen more as a confirmatory procedure.

Estimates of the incidence of transsexualism vary but an oft quoted figure in the U.K. is 1 in 10,000 people. However as social attitudes, employment conditions, and legislation are seen to improve in relation to the transsexual person, this may well prove to be an under-estimate as those genuinely gender dysphoric but hitherto living in denial of their true gender identity, seek advice and treatment from the medical profession. Indeed, recently acquired data shows a sharp increase in the number of cases being referred to Gender Identity Clinics.

**Intersex** refers to about thirty genetic and hormonal conditions, which lead in some individuals to an obvious mixture of male and female sex traits. In others the variation is far less noticeable and many intersexuals probably live their lives as men or women without suspecting the complexity of their nature.

Until recently the medical solution was to surgically refashion the reproductive system and genitalia to conform to one sex or the other at the earliest opportunity believing that this would facilitate the individual gathering a conventional sense of gender. 'Nature winning over nurture' however has seen the emergence of many



instances where intersexuals in later life show clear indication, and insist, that they were assigned the incorrect birth sex. Accordingly, the developing view is that surgery can often be postponed until closer to puberty or even later, when the child can more effectively participate in the decision.

Although derived from a different cause to that of the transsexual person, gender role transition and similar treatment to that afforded transsexuals may be required for the intersex individual to achieve their proper gender.

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

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

Further a transsexual 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. Frequently though they would 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 infer bisexuality.

In fighting for their basic human rights, transsexuals 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. Being relatively few in number, transsexual people have often elected to seek 'safe haven' in the LGB 'world'. Forces have frequently been combined when campaigning for acceptance and equality, although it is true to say that there are those within each group who are hostile to this potentially confusing mix of gender identity with sexual orientation.

A key point of variance is that the transsexual person, whilst seeking acceptance and tolerance, does usually not so much want to 'come out', as blend into the world in their acquired gender.

## 2. COPING

**Gender dysphoria** is hard, often impossible, to diagnose at an early age. Some individuals start to show behavioural indications during childhood, but symptoms of unease with the 'assigned' gender identity are often only apparent to the individuals concerned and may not be understood even by them. If these individuals are able to articulate their unease, this early recognition may enable treatment to be initiated before secondary characteristics develop at puberty. The term '*primary transsexual*' is sometimes used in reference to such persons.

For many however, their discomfort grows through adolescence and into adulthood, as family and society, in ignorance of their underlying gender identity, relentlessly reinforce gender roles imposed upon them in accordance with their physical appearance alone. The level of discomfort varies between individuals. Some may become reconciled to their situation and learn to live with it. Others, though having struggled to conform, maybe having embarked on relationships, marriages and parenthood in an attempt to lead 'normal' lives, may ultimately be unable to continue

the charade of presenting themselves as something they know they are not. Such people are sometimes termed '*secondary transsexuals*'.

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

The personal discomfort for those attempting to live in the gender assigned at birth is such that it easily leads to great unhappiness, stress and possibly, suicidal feelings. Even when aware of the option of transition and effective medical treatment, thoughts of the potential distress to their family, concern about being able to transition effectively, possible discrimination, harassment and employment problems are all factors in a very complicated equation. In 1981, the Harry Benjamin Institute estimated that 50% of the transsexual population died by their own hands by the age of 30. International Annual Transgender Remembrance Day was established to commemorate trans victims of violent death. Transphobia is real and transsexual persons are accustomed to facing hostility in their lives. This, of course, does not make it any the more acceptable.

Medical treatment to enable transsexual people to alter their bodies to match their core gender identity is highly successful with up to a 97% success rate. In a 2004 survey conducted in the United Kingdom amongst long term post-operative transsexuals, there was found to be an overwhelming consensus as to how they described their lives in retrospect and the decision they had taken. Effectively, '*Je ne regrette rien*'.

### 3. TREATMENT

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

The usual first step is a visit to a General Practitioner and referral to a Gender Identity Clinic – NHS funding issues often decree that referral is via an interview of the individual by a local psychiatrist. The Charing Cross Hospital Clinic based at the Claybrook Centre in Hammersmith, London is the most commonly known, but regional clinics exist around the U.K., including Leeds, Newcastle, Nottingham and Sheffield. However, long waiting times for even an initial appointment in some cases 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, a careful and accurate diagnosis is vital.

If a diagnosis of gender dysphoria is made and the individual has not yet changed social gender, they can now be expected to do so and commence what is termed the Real Life Test (RLT) or Real Life Experience (RLE), where the individual transitions 'full-time' into the opposite gender identity or role.

In addition to counselling and speech therapy, facial hair removal (for transsexual women) by laser and/or electrolysis and almost certainly self-funded, may now be advised if not already started. Laser treatment is not always an effective option and treatment by electrolysis can take a few years. Both options are expensive.

**Hormone treatment** will be prescribed as it plays an important role in anatomical and psychological gender transition. Androgens given to biological females and oestrogens, progesterone and testosterone-blocking agents to biological males induce a feeling and appearance more akin to members of their preferred gender. The effects of administering oestrogen to biological males include breast growth, some redistribution of body fat, decrease of body hair, slowing or stopping the loss of scalp hair, decreased upper body strength, and softening of the skin. And for biological females treated with testosterone the effects include deepening of the voice, increased facial and body hair and male pattern baldness, increased upper body strength and decreased hip fat.

**Surgery:** Although some surgical procedures, e.g. breast augmentation in the case of a transsexual woman (again usually funded by the transsexual herself) may be undertaken before, satisfactory completion of a two year (one year for private patients) RLT must occur before referral for gender reassignment surgery is possible. Separate referral from two clinicians is required. Experience has shown that only about 15% of MTF transsexuals and 90% of FTM transsexuals of those that approach the specialist Gender Identity Clinics are considered suitable for surgery or still desire it by this stage.

Genital surgery for MTF transsexuals involves removal of the testes and erectile tissue of the penis and creation of labia, a neoclitoris and artificial vagina. Other procedures may be undertaken. These include reshaping of the nose, shortening of the vocal chords (to raise the pitch of the voice) and shaving of the Adam's apple. For FTM transsexuals, surgery may involve bilateral mastectomy, removal of the ovaries and hysterectomy, artificial testes implants and penis construction (phalloplasty)

Both NHS and privately funded surgery is available in the UK but a number of transsexual people elect to travel abroad for it, most notably to Thailand. In addition to personal preference, taking the private or Thai 'route can be the result of delays in receiving local health authority funding – sometimes referred to as a 'postcode lottery' – and/or surgery waiting lists.

The technical success of reassignment surgery is greater for MTF transsexuals than FTM transsexuals, and continues to improve as new techniques are developed. The overall success of treatment depends partly on the technical success of the surgery, but more crucially on the psychological adjustment of the transsexual, and the support from family, friends, the medical profession and employers.

# Part II: Key Legislation

## 1. 1996 ECJ Ruling in the Case of P v (1) S and (2) Cornwall County Council

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

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

Other cases similar to P v S and Cornwall County Council, including the Industrial Tribunal case of *Elmes v Exeter District Council and Others*, were then brought into line with the ECJ ruling.

## 2. Disability Discrimination Act 1995

In some cases the Disability Discrimination Act 1995 could be argued to provide 'protection' for transsexual people. The Act defines a disability as a "physical or mental impairment which has a substantial and long term (more than one year) adverse effect on a person's ability to carry out normal day to day activities". NHS waiting lists could conceivably leave an individual diagnosed as gender dysphoric waiting in excess of a year for treatment.

The Act has not yet been cited in such a case and therefore no precedent exists, but good practice would suggest an employer of such an individual made 'reasonable allowance and adjustment' in their respect.

## 3. 1997 EAT Ruling in the Case of Chessington World of Adventure v Reed

Ms Reed was subjected to 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.

#### **4. Sex Discrimination Act (Gender Reassignment) Regulations 1999 & GOQs**

The Sex Discrimination Act 1975 makes 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 extended the Act to cover those intending to undergo, currently undergoing or who have already undergone gender reassignment, but only in the areas of employment and vocational training.

The Act covers a broad range of workers including contract workers and applies regardless of service in employment and of number of hours worked.

*Discrimination* is defined in terms of comparative treatment of the transsexual person and that of 'other persons' for whom gender reassignment grounds do not exist.

*Coverage* includes recruitment, promotion, training, transfer, access to employment related benefits including pay, selection for redundancy and entitles the individual to a working environment free from harassment on the grounds of gender reassignment.

*Sick absence* allowed to a person undergoing gender reassignment should be compared with absence which is due to sickness or injury of 'other persons' for whom gender reassignment grounds do not exist.

A claim can therefore be brought against an employer, or an individual, for any unlawful discrimination including harassment. Further, the employee is protected by the Regulations throughout the process of gender reassignment, from the moment they first indicate that they are gender dysphoric.

#### **Genuine Occupational Qualifications (GOQs)**

Although in most cases the gender of an employee is of no relevance to their ability to do their job, the Sex Discrimination Act established that in certain limited circumstances it is lawful to discriminate in recruitment, training, promotion and transfer in a job for which the sex of a worker is a Genuine Occupational Qualification (GOQ). For instance a GOQ can be claimed in situations of 'Privacy and decency', e.g. a male care assistant whose job involves helping men dress or use the toilet or in 'Personal welfare or educational services', e.g. a female counsellor in a rape crisis centre. A GOQ cannot be claimed however if there are enough other members of staff of the appropriate sex to cover the duties in question.

The Gender Reassignment Regulations accordingly established an exception relating to gender reassignment corresponding to existing categories of the SDA; and also cases which apply only in instances of discrimination on grounds of gender reassignment.

One example was that of a jobholder conducting intimate searches in accordance with statutory powers – (*but see the case of A vs. West Yorks. Police at 7 below*). Or the job involves working in a private home and the employer can make reasonable objection against a transsexual person being employed because intimate contact is involved.

#### **Nota Bene**

The exceptions referred to in the above three paragraphs are no longer applicable once a person has achieved recognition in their acquired gender by virtue of issue of a Gender Recognition Certificate under the Gender Recognition Act (*see 8 below*). Such a person is to be regarded as being of their acquired gender for all purposes in law. Therefore, a transsexual person with a Gender Recognition Certificate has

protection in ALL areas covered by the Sex Discrimination Act in his or her recognised gender.

Good practice generally is to treat transsexual people as being of the gender that they identify with rather than their legal sex, if different. The point of change of social gender is generally the appropriate marker for status in their acquired gender. It is not acceptable to treat a person as belonging to neither one sex nor the other in the context of employment, either for a period of time or for life. This should not cause a problem unless a GOQ properly applies, in which case a full and frank assessment of the situation will be required.

*For more details of the Act download 'A Guide to the Sex Discrimination Act 1975' at [www.womenandequalityunit.gov.uk](http://www.womenandequalityunit.gov.uk).*

## **5. 2002 ECHR Ruling in the Case of Goodwin & I v UK Government**

UK law treated the sex of an individual as being defined permanently at birth. This not only prevented a transsexual person from marrying a person of the gender opposite to their own 'acquired gender' - in the *Corbett v Corbett* (April Ashley) decision of 1970 it had been ruled that gender was determined by purely biological criteria - but meant that official records, for instance those relating to pensions, frequently forced disclosure of gender origin.. The European Court of Human Rights' decisions in the cases of Christine Goodwin and I 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.

This ruling, 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 the European Convention, led 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 ECHR judgement had focussed on post-operative transsexuals (although 'post-operative' was not defined), but left it open to the UK government to make legal recognition available to those who, maybe on health or disability grounds, did not undergo reassignment surgery.

## **6. 2004 ECJ Ruling in the Case of K.B. v NHS Pensions Agency**

K.B. was a female employee in an occupational scheme and had a long term relationship with a female to male transsexual, marriage to whom was then precluded by UK law. The court ruled that the UK's failure to allow K.B. to marry her partner (and thereby allow him to inherit a widower's pension, should the case arise) was in principle a breach of EU law.

## **7. 2004 House of Lords Ruling in the Case of A v W. Yorks Police**

'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' (*see 4 above*). The House of Lords however, rejected the Force's argument on the

basis of the 1996 ECJ ruling re P v S & Cornwall County Council (*see 1 above*) that a transsexual person be regarded as having the sexual identity of the gender to which or she has been assigned. Further, as the Gender Recognition Act was then with Parliament, the Lords noted that, in policy terms, the view had been taken that transsexual people belong to the gender in which they live.

## 8. Gender Recognition Act 2004

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

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

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

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

Legal recognition has the effect that, for example, a male-to-female transsexual person is recognised as a woman **for all purposes – in law**. Upon the issue of a full GRC, the person assumes all legal rights of their new gender, including that to marry someone of the opposite gender to their acquired gender, or to form a civil partnership with someone of the same 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. The new birth certificate does not disclose the change of gender and the Gender Recognition Register is not open to search by the public.

*As stated at Part II 4*, it is unlawful discrimination for an employer to treat a job applicant or employee less favourably on the grounds that the employee intends to undergo, is undergoing or has undergone gender reassignment except in exceptional circumstances (such as where privacy and decency require it) Once a person has become the 'acquired gender' under the provisions of the Gender Recognition Act, these circumstances no longer apply. Thereafter, an employer must treat a transsexual woman with a GRC no less favourably than their other female employees. And naturally the equivalent applies in respect of transsexual men.

Section 13 of the Gender Recognition Act deals with social security benefits and pensions by ensuring that transsexual people 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 14 makes it clear that the employment exceptions stemming from Genuine Occupational Qualifications relating to the Sex Discrimination Act and Gender Reassignment Regulations (*see 4 above*) do not apply in the case of the holder of a GRC (with the exception of an organised religious employment position that is limited to those not affected by gender reassignment)

Section 22 establishes a right to privacy for the transsexual person in that it is an offence for a person to disclose information he has acquired in an official capacity about a person's application for a GRC or about the gender history of a successful applicant – this is 'protected information'. The term "official capacity" is set out to

include a person's functions as a member of the civil service, a constable, an employer or prospective employer, or a person acting in the course of business or the supply of professional services.

Once a transsexual person has a GRC, should, for example, someone whose work gave access to that employee's personal file disclose the fact that the person was born a different gender to that in which they now live, an offence has been committed. 22(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. Under 22(4)(c), the prohibition on disclosure only extends to those people who can reasonably be expected to know that the information falls under the remit of the Act. Certainly though, if the holder of a GRC had chosen to inform his/her personnel officer that a GRC was held, then apart from the specified exceptions (*see below*), an offence would be committed if the personnel officer then disclosed that person's gender history without the specific consent of the individual. A procedure has been designed to secure the gender history of transsexual Home Office staff – *for details see Annex F*.

The Act contains a series of exceptions, as listed at 22(4), as well as provision for the Secretary of State to add to them 'by order', that allow 'protected information' to be disclosed for valid public policy reasons, such as for the purpose of prevention or investigation of crime. An exemption also exists for the purposes of pensions and benefits which allows information to be disclosed, but only as necessary for this purpose, e.g. processing a claim. It is also not an offence to disclose 'protected information' where it does not enable the person to be identified or where the individual to whom the information relates consents to the disclosure.

## **9. Data Protection Act (1998)**

For the purposes of the Data Protection Act, transsexualism and gender reassignment would constitute 'sensitive data' which can only be processed for certain specified reasons, as set out in the Act.

## **10. Section 8 Asylum & Immigration Act (1996)**

Since May 2004, potential employers are required to demand of job applicants evidence of identity and of the right to work in the UK. Such proof can be a UK/EU passport or full birth certificate and P45, P60, National Insurance card or letter from a Government agency – which transsexual workers may not possess in their acquired gender. Details of any resultant enforced disclosure must therefore be kept confidential by employers.

## **11. EC Directive 2004/113/EC**

This directive covers protection against discrimination on grounds of gender in the provision of goods and services and is due for implementation by December 2007. Whilst not making explicit mention of transsexual people, repeated cases in the European Court of Justice have confirmed that discrimination on the basis of gender identity is discrimination on the basis of gender. This led the Commission and Council to make a joint statement to the effect that goods and services protection for transsexual people must be provided. The UK government have confirmed their commitment to prohibit discrimination against transsexual people in the provision of goods, facilities and services by the above date.

*(Post publication note: This was effected through The Sex Discrimination (Amendment of Legislation) Regulations 2008 - - fuller details to be incorporated in a forthcoming revision of this work).*



## **12. 2006 ECJ Ruling in the Case of Richards v Sec. of State for Work & 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. In furtherance to the case of *K.B. v NHS Pensions Agency* (see 6 above) this confirmed that any national legislation, or workplace practice, which affords pay related benefits based upon sex or marital status, that results in a transsexual person who is permanently living in their new gender role being denied benefits is, in principle, incompatible with Article 141 EC – which states, “Each Member State shall ensure that the principle of equal pay for male and female workers for equal work or work of equal value is applied.”

## **13. Equality Act 2006 & Gender Equality Duty**

The Equality Act amended the Sex Discrimination Act 1975, with effect from 6 April 2007, to place a statutory duty on all public authorities, when carrying out their functions, to have due regard to the need:

- to eliminate unlawful discrimination and harassment
- to promote equality of opportunity between men and women.

Discrimination on the grounds of sex includes discrimination on the grounds of gender reassignment in employment and vocational training. Public authorities are therefore legally required to embrace transsexual people within this Gender Equality Duty in this respect. Further, given that by December 2007 under the European Goods and Services Directive (*see 11 above*) gender reassignment discrimination and harassment in access to goods and services will be unlawful, public authorities will also need to take this into account when implementing Gender Equality Duty.

*(Post publication note: This was effected through The Sex Discrimination (Amendment of Legislation) Regulations 2008 - - fuller details to be incorporated in a forthcoming revision of this work).*

In the context of employment policies and procedures public authorities are required to ensure that they adequately cover transsexual employees – giving particular attention to confidentiality, harassment, allocation of resources, recruitment, training, secondment, internal job vacancies, career development including promotion, pensions and other benefits such as insurance.

# Part III: Issues

## 1. PRIVACY

Living our lives with labels attached is something with which we all have to contend. 'Freda Bassett, Immigration Officer, .....' or 'Matthew Ansun, father of two, .....' are labels of no contentious consequence. 'John Smith, transsexual, .....' is a different issue. Whilst not suggesting that transsexual people are ashamed of their medical history and status, it is not the first and foremost way by which they wish to be known or thought of.

Those whose transition from one gender identity to the other is known within their immediate circle, although reluctantly accustomed to living their lives in a goldfish bowl, have a right to being spared intrusive questions and public speculation into their lives and medical status, just as all employees do. Unfortunately the very nature of transitioning to the gender opposite to that assigned at birth always attracts massive attention for a variety of reasons, not least its rarity. Yet for the transsexual person themselves it is their life. And one made all the more demanding if made to feel permanently up for scrutiny, judgement and comment. A change of gender is a not a fanciful whim, or lifestyle choice, but a response to a medical need.

Due respect to privacy and a freedom from workplace gossip unnecessarily broadcasting their personal circumstances is a reasonable consideration. Most transsexual people wish to keep their transsexual status as private as possible, whilst 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 transitioned, 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 constitute a breach of confidentiality, as well as potentially be seen as harassment.

### **'Stealth'**

Many transsexual persons are not known to be such in their workplace having effected gender transition before commencing employment or changing jobs at the time of transition. The term 'stealth' is sometimes applied to such people yet 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 role. Any suggestion that such a person is not being 'open and honest' is therefore totally unreasonable. For the individual concerned it substitutes living on a 'knife-edge' (of disclosure) for life in the goldfish bowl.

### **Media Interest**

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

## 2. DISCLOSURE

### **Confidentiality**

An employee's gender history is clearly part of the individual's private medical and personal history over which the employer has a general duty of care emphasized by existing codes of practice in the maintenance of such records. Further, in the absence of legal recognition and explicit privacy protection for transsexual people, the Goodwin and I ruling of the European Court (*see Part II 5 above*) specifically reflected the problems and highlighted the application of Article 8 of the Human Rights Convention (the right to private life) Whether or not protected from disclosure by possession of a Gender Recognition Certificate (GRC), the transsexual employee therefore has a right to expect that the employer's procedures and practices are in keeping with Human Rights law as clarified in July 2002. 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 if the individual's acquired gender has been recognised legally. A consequence of Gender Equality Duty (*see Part II 13*) is to reinforce this duty of care with regard to confidentiality.

### **Gender Recognition Act**

As set out more fully (*in Part II 8*) above, the Gender Recognition Act 2004 in providing for the legal recognition of the transsexual person in their acquired gender created a offence at section 22 for unauthorised disclosure. Essentially it is an offence for a person to disclose information he has acquired in an official capacity (e.g. in his functions as a civil servant) about a person's application for a GRC or the gender history of the holder of a GRC as this is 'protected information'. For example, should someone working in HR with access to the employee's personal file, disclose the fact that the person was born a different gender, then a criminal offence has been committed, as well as a major breach of employer/employee confidentiality. This is a 'strict liability' offence which means no room for pleading 'reasonableness' – no "only doing my job". Note that 'need to know' is not sufficient reason to disclose. For example, a medic passing on a record that an individual is a transsexual person, even to another medic, breaches section 22 unless he has prior consent of the person concerned. The holder of a GRC is not obliged to inform their employer that one is held, but certainly if the individual chooses to do so then their gender history is clearly established as 'protected information'. Such information cannot be shared by that person with colleagues unless in compliance with one of the specified exemptions within section 22, such as the individual's explicit consent. (*See Part II 8*)

### **Best Practice**

It is not possible to hold a GRC until two years 'post-transition' and even then valid reasons exist for some transsexual people not to apply for legal recognition in their acquired gender – for instance the individual may be married and not prepared to contemplate annulment of their marriage with the option of forming a civil partnership in lieu. Nonetheless, in respect of either situation, it is good practice and in keeping with the spirit of the law to regard all those who have transitioned gender identity as if a GRC was held, from the point of social gender change onwards. Within the Home Office it is held that irrespective of whether or not a GRC has been issued and protection afforded by the Gender Recognition Act, a similar degree of privacy and confidentiality be extended to all transsexual staff – *see HO Notice 32/2006. And for details re the application of this policy see Part III 5 and Annex F of this Guide.*

## 3. PREVIOUS NAMES/JOB APPLICATIONS/INTERVIEWS

When a transsexual person applies for a job with a future employer who asks for disclosure of former names and employers then they are only obligated to give

current names under the Sex Discrimination Act (Gender Reassignment Regulations 1999) (see *Part II 4 above*) as there is no obligation to disclose transsexual status, thereby compromising their right to privacy under Article 8 of the Human Rights Act (and the Gender Recognition Act if the holder of a GRC).

If the individual has already informed previous employers of the need to 'correct' their records showing new name and acquired gender only, then details of former employers can be openly given as those employers will be bound by the Gender Recognition Act rules on disclosure if a GRC is held, or hopefully, good practice in line with the protections provided by the SDA Gender Reassignment Regulations if a GRC is not held. It may be however that references from previous employers or evidence of educational qualifications will disclose a previous name and thereby previous gender identity. In such cases total confidentiality must be respected and appropriate measures taken to ensure it.

### **Recruitment/Interviews**

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

It should not be expected that applicants and interviewees for employment necessarily wish to disclose their transsexual status. 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. If disclosure is voluntarily made, the information should be held in strictest confidence, particularly since it may well be 'protected information' as defined by section 22 of the Gender Recognition Act, and not be made available to other staff. Discussion with a successful applicant as to who should be so informed will be relevant. Disclosure by the job applicant is not in itself a reason for not offering employment and non-disclosure or subsequent disclosure is not grounds for dismissal.

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

### **Security**

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

It is then vital that the employer realises its obligation to then control 'protected information' obtained in this way in accordance with the meaning of section 22 of the Gender Recognition Act and not be blind to the potential of collateral damage created by open disclosure.

A useful 'work around' has been found with respect to CRB checks. In view of this example, application forms should include an explanation that as an equal opportunities employer, the Home Office recognises that certain information may be highly private and potentially prejudicial to an individual's employment prospects or later safety if openly disclosed. Provision can then be made for transsexual people to omit former name details from the form they submit on the understanding that the applicant simultaneously conveys that information, and details which will allow it to be cross-checked, direct to a secure processing address.

The Departmental Security Unit (DSU) in the Home Office have set up an arrangement whereby transsexual individuals can send their security papers, where disclosure of gender history by inclusion of a previous name is implicit, direct to DSU – the specific named contact there is listed at Annex F. DSU are also fully aware of how factors that may be disclosed by the security checking process such as financial and medical history may be a result of the gender reassignment process – and thereby not necessarily indicative of an ongoing situation.

### **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, records concerning pensions should be based on 'birth gender' with strict procedures in place to prevent disclosure of that birth gender other than solely for the purpose of administration with that pension environment (*see Part III 6*) Insurance cover is another consideration (*see also Part III 6*)

### **Change of Name at Transition**

Where an employee transitioned gender identity subsequent to joining the Home Office, many records will already exist that bear previous names and gender. It is not only essential that all are changed to coincide with the new identity but that adequate steps are taken to prevent disclosure and use of the previous identity details (*see Part III 5 and Annex F*).

### **Employment History**

It may be that Home Office employment history will betray the fact that an individual once worked in an area only open to one sex – e.g. the Immigration Branch (as it was then called) pre October 1971 – and that the employee has since transitioned gender. It is unreasonable in such circumstances to insist on enforced self disclosure by giving departmental seniority/history on new records e.g. staff annual reports or transfer/job applications. Consideration to a 'work-around' should be given.

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

### **Pre-Employment Transition**

The transsexual person who changes gender identity before entering Home Office employment is under no obligation to inform either management or colleagues of their transition. However, should such a person voluntarily disclose their change of gender identity 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 well choose to confidentially notify HR of their possession of such, since their gender history will automatically become 'protected information' as defined by the Gender Recognition Act and subsequent disclosure become a clear cut offence under section 22 of the Act.

### **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 Test is a full-time transition of gender role so attendance at work in the new role is necessary. Once a transsexual person has sought medical advice from their GP or a psychiatrist about their intention to undergo gender reassignment, they will be fully protected by the Sex Discrimination Act (Gender Reassignment) Regulations (*see Part II 4*) if they then inform their employer of this intention.

The individual may well have kept their core gender identity secret for many years and whilst convinced of their need to transition may be daunted by the seemingly insurmountable obstacles faced. Not least of the problems is the fact that whilst their gender identity has been a factor to them for most of their life, the announcement of

the impending change will almost certainly come as a surprise, and perhaps shock, to work colleagues, particularly long term ones. Simultaneously the individual will probably be confronting issues arising within their own family from the intended transition and may be faced with anger and rejection on the home front. Work colleagues, since they are not as closely involved or affected, will hopefully not feel so personally challenged and find it easier to accommodate the change. However gender transition is a subject about which many hold hostile views based on personal conviction and, sometimes, prejudice. Awareness policies and diversity training, coupled with changing modern day attitudes, are hopefully contributing to an easing of this situation and more ready acceptance of a transsexual colleague as being entitled to, and worthy of, a place of equal respect in the workplace.

Transition at work, when realistically faced up to and sensitively handled, should result in a feeling of improved contentment by the transsexual individual who has taken a massive step along the road to realising their true gender identity and towards completing gender reassignment.

### **Redeployment**

An employee may prefer redeployment and in the instance of a large employer such as the Home Office, this option may be relatively easy to accommodate, especially if the employee is prepared for a change of environment. However an employee cannot be obliged to accept redeployment 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 initial approach by staff member to management will clearly be a matter for decision by the individual but will probably be guided by the progress of medical treatment. A Gender Identity Clinic may have advised commencement of the Real Life Test in which case the individual may proffer evidence of their gender dysphoria in the form of a letter from a gender identity consultant or clinic or G.P. Conversely an employee about to attend a clinic may seek evidence for the clinic of the serious nature of their intent by requesting a management letter confirming discussion of their anticipated change of gender identity. Such a request should be acceded to.

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, HRD, Health & Welfare, a union rep or a colleague. All but the colleague are obliged to maintain confidentiality except where otherwise agreed by the individual. The vital response is to assure that the Home Office will be supportive, that it does not discriminate against transsexual employees and that other Home Office employees have successfully trodden this path before. It must be realised that the manager will probably not have encountered this circumstance before and that the individual concerned may have had no contact with fellow transsexual employees. For both, assistance is available within the Home Office workplace - in the Immigration & Nationality Directorate (IND) from the Equality and Diversity Team (EDT) and in Home Office HQ from the Strategic Diversity Action Team (SDAT); and from **a:gender** (the Civil Service-wide support network specifically for staff who have changed or need to change permanently their perceived gender identity (transsexual/transgender), or who identify as intersex; and Spectrum (the Home Office staff support network for lesbian, gay, bisexual, transgender and transsexual (LGBT) staff) (*for contact details see Annex E*) All these organisations have experience in issues relating to 'transsexual people in the workplace'. Additionally, both **a:gender** and Spectrum can provide direct advice from and contact with other transsexual and transgender staff on a personal basis. A logical first step is to agree a main point of contact who will manage the transition from the Home Office's perspective, possibly a senior local manager to avoid repeated explanation of the

same issues by the transsexual employee and to ensure co-ordination of action taken.

Although it cannot be assumed, most staff about to transition will already be well informed of their rights and responsibilities in the workplace, not least through the activities of organisations such as Press for Change, the Gender Trust, and GIRES (the Gender Identity Research & Education Society), all of whom publish relevant literature. Provision to the employee of up to date booklets on gender identity issues in the workplace may be welcomed. Examples include the Department for Education and Employment guide to the Sex Discrimination Gender Reassignment Regulations and the Gender Trust's 'Transsexualism & Gender Reassignment – Recommendations & Guidelines for Employees'. The latter offers a particularly useful perspective from the transsexual person's point of view. Provision of a copy of 'The Workplace and Gender Reassignment: A Home Office Guide for Staff and Managers' and other literature written or endorsed by **a:gender** is recommended.

### **Agreeing a Process**

Successful support and management of an employee's transition depends crucially on taking account of the individual's views on how the process should 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;
- the expected time scale for medical appointments, treatments and surgical procedures and how provision of time for such is to be made;
- amendments to records and systems to take account of the change of personal details;
- when and how colleagues should be informed - the employee should decide who performs this task - and whether any training in gender identity issues is needed;
- how to handle any harassment or hostile reaction or media interest.

### **Informing Colleagues**

Agreement between management and the individual is important before communication and disclosure of impending gender identity transition. How it is done will not just depend on the individual but also on the size and structure of the workplace. Further a shift working environment may dictate repeated communication or a written rather than verbal method. In a small work environment it will probably be viewed best to inform all staff together. In a large environment it may be considered unnecessary to inform employees who have no direct contact with the individual. It should be borne in mind though that gossip travels fast and wide, so it may be preferable to include such people in order to avoid ill-informed tittle-tattle. If the information is conveyed by management, it must be at a time agreed by the individual, and if by the individual, then management will need to know when the disclosure is to take place and at what depth, so that appropriate support can be co-ordinated.

The staff networks **a:gender** and Spectrum can provide support by transsexual co-employees in either giving a presentation and explanation to staff of the relevant issues or personal assistance to the individual in explaining their situation. Whichever approach is adopted managers will have to ensure that sufficient information is available to help the workforce understand what is involved and 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, i.e. without going into too much personal or unwished for graphic treatment 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.

Particularly in a large workplace, a verbal account to colleagues may be impractical or too daunting a prospect for the individual. A previously tried and tested format in this scenario is a carefully worded written communication, perhaps email, to colleagues along the lines of the example at *Annex D*. Experience has shown this to gain the respect of colleagues for the open and frank explanation given and being seen as not hiding behind the shield of management. 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.

In some work environments, staff have regular contact with parallel organisations e.g. Immigration Service personnel working alongside Port Police Units. Consideration will have to be given to the need or desirability of disclosure to these and perhaps a key contact in them entrusted to relay the information to their respective colleagues in a responsible manner.

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

### **Time of transition**

At the point of transition it is common for the transsexual person to take a brief break from work and use it to complete necessary changes in their personal life e.g. legal change of name (*see Annex E*), change of bank details. The opportunity should be taken to ensure workplace records and IT systems have now been appropriately amended – *see Part III 5 and Annex F*.

Experience has shown that hitherto record changing/maintenance has been one that has frequently caused distress to a gender transitioned employee with evidence that the adjustment has not been comprehensive or reversion to the use of the previous name and/or gender occurs later, triggered possibly by data cleansing procedures not being carefully monitored. The employee is thereby required to repeatedly explain themselves, and other staff are unnecessarily reminded, or perhaps newly informed, of the change of gender. Getting it right at the start through careful planning and attention to detail is clearly the target.

Some advance thought should be given to the first day at work in the new gender identity to ensure a quiet and smooth first day rather than a flags out, banners waving, everyone 'open-mouthed in anticipation' atmosphere. Having met some colleagues beforehand in the gender of transition, maybe at a lunch or evening out, or 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, but the less fuss, the more every day the atmosphere the better. Some pre-planning of the day's work may help too. Where possible, scheduling tasks normally regarded as demanding and stressful for a later day that week will make the first day easier to cope with. Given effective preparation, most transsexual staff later recall the 'first day' at work as one of contentment and an overwhelming feeling of "At last."

### **And afterwards**

Monitoring the environment in which the recently transitioned transsexual staff member operates is obviously good managerial practice. The individual may be reluctant to mention a problem encountered, perhaps through feeling obligated for assistance so far given or maybe feeling compelled to sort it themselves. Not all individuals possess sufficient self confidence and inter-personal 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. An occasional check in the early days just to see how things are going may identify an issue, maybe one that was overlooked in



the pre-transition preparation. And further, the manager who is alert to workplace reaction and not ignorant of gossip and barbed comments concerning the transsexual person should find it easier to deal with the situation than rather than await the development of bullying and harassment. (See *Part III 7*)

Changing gender role is not an overnight occurrence, but a process, despite the overwhelming conviction of having truly belonged to the acquired gender since birth. Further, though transsexual people know themselves to have the brain, understanding and thought processes of their acquired gender, they will have been brought up and conditioned according to 'birth sex'. It follows that even some time after transition, this long standing conditioning may affect reactions, particularly at time of stress, and behaviour more traditionally associated with the former gender role surfaces; perhaps a more aggressive response than expected from someone accepted as a transsexual woman. In time this likelihood lessens, but it is as well to be aware of the possibility.

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

On entering employment with the Home Office, a transsexual person may have disclosed information relating to previous name and gender (*in circumstances outlined in Part III 3 above*) Wherever possible personnel records held should not refer to these details, but because of the possible anomalous legal gender status of the staff member, it may be necessary in some circumstances, e.g. with regard to pensions and insurance (*see Part III 6*).

Procedures pertinent to the retention of and access to personnel records should have been reviewed in order to ensure that they are compliant with the relevant legislation, including Gender Recognition Act.

It is inevitable that within a large organisation records and references relating to an individual staff member are held in a myriad of locations. Therefore in circumstances where a staff member has transitioned gender identity after entering employment, there are many potential instances where details of a previous name or gender may unnecessarily be revealed. This has in the past, unfortunately, been the cause of much distress to transsexual employees and all possible steps should be taken to guard against recurrences. In some instances such disclosure would constitute an offence under the Gender Recognition Act, but whether or not the information held is 'protected information' under the terms of the Act or not, it should be regarded as if it were. It should be remembered that Gender Equality Duty conveys a duty of to take measures to ensure confidentiality in respect of transsexual staff.

Again, current records should not refer to the previous name or gender and those made prior to the change must be updated – subject to the proviso relating to pensions and insurance *as above*. Access to these records must be restricted to staff who require such information to perform their specific official duties. 'Need to know' is insufficient reason to disclose 'protected information' – the consent of the individual must be obtained. Breaches of confidentiality, even where an offence under the Gender Recognition Act has not been committed, will be viewed seriously.

The optimum process to adopt for a full and effective record change at the time of transition of a transsexual staff member may well vary from one location to another. It is recommended that the individual concerned and the 'main point of contact', (*see Part III 4 above*), work together to compile a comprehensive list of records that will require amendment. Time for these changes to be effected will be facilitated in instances where the transsexual individual has chosen to take a brief break from the workplace that coincides with transition. The list will inevitably not just comprise HR, pay and pension records, but include all IT systems to which the individual has access and IT address lists with reference to the person, all relevant staff directories including telephone listings, letter templates, names badges, security passes and

warrants. Prioritising the requests for record change and synchronization, e.g. by stating a deadline, is important in order to a) avoid a situation where the same employee is known simultaneously under different identities and b) prevent contact and correspondence using the former identity after transition has taken place.

As regards HR, pay and pension records, the appointment of a nominated HR officer – as is Home Office practice - who can manage and coordinate the change process can help in two respects. Firstly any requested legal proof of change of name, e.g. a Statutory Declaration, or certified copy thereof, (*see Annex E*), need only be furnished to one point. Secondly any query re the process – or subsequent lapse in its effectiveness – can be dealt with by this officer, and a situation where a transsexual person is repeatedly required to account for themselves is avoided. *For details of nominated officers, known as GRA Liaison Officers, see the 'Workplace Support/Information' annex.*

Even where pension gender, through being based on legal gender, is in apparent conflict with the given gender (e.g. a transsexual who does not hold a Gender Recognition Certificate) there is no reason why correspondence cannot be addressed in the gender of transition. Indeed to do otherwise is disrespectful, and potentially humiliating. It may constitute harassment. Steps to ensure 'data cleansing' processes do not trigger this should be taken.

Changes to email accounts and IT systems, POISE, TBC, CID, WICU etc must be dealt with by IT teams in comprehensive fashion in order to avoid 'glitches' - such as clicking on properties with regard to an email name reveals the previous identity, or locking a workstation then producing reference to that identity.

Replacement of security passes will almost invariably include the provision of a new photograph of the holder. A useful ploy where a pass is issued by an outside concern, e.g. a dock or airport pass for an Immigration Officer, is for local management to return the old pass as no longer needed and for the individual to apply for the new pass as if a new employee. In other words, whenever possible, avoidance of the potentially stressful situation of the transsexual individual again having to explain their gender transition is good practice.

At some point subsequent to transition, the transsexual staff member may be absent from work for gender transition related medical treatment or surgery. Absolute confidentiality must be applied to the retention of and access to records relating to an employee's gender identity/reassignment treatment and no such records held locally (*see Part III 12 below*).

### **Set Home Office Procedure re Record Change and Privacy of Gender History**

An 'HR internal process for dealing with Staff who have changed/are changing gender – Gender Recognition Act Compliance and Best Practice to be Followed, Irrespective of Production or Possession of a Gender Recognition Certificate' - has been established with the Home Office. It has been designed to both facilitate the necessary record changes and secure 'gender history' from disclosure. *A resume of this process is attached as Annex F to this Guide.*

### **Voluntary Disclosure**

Voluntary disclosure at a secondary level 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.

### **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**

Absolute confidentiality is of paramount importance and there is much more to the issue than merely saying that the data will be seen by very few staff.

Monitoring transsexual staff is a very sensitive area. Whilst an employer may consider that, in order to gauge that their responsibility under Gender Equality Duty to eliminate discrimination and harassment of transsexual staff is being met, there is a need to monitor, a very substantial proportion of transsexual employees will feel no inclination to disclose their change of gender identity in the monitoring process of a workplace where discrimination and harassment on grounds of gender reassignment occurs. Monitoring returns that show a very low number of transsexual staff may well betray an employment environment where transsexual employees do not feel 'safe'.

The subject is further complicated - not least because many people who have undergone transition, maybe surgery, maybe obtained legal recognition in their acquired gender, no longer regard themselves as transsexual persons but strictly of one identifying as either male or as female. Staff who have the need to 'transition', and maybe fear to do so because of colleagues adverse reaction, are not even catered for on most currently designed monitoring forms. Figures produced by means of monitoring will never show the full number of staff who live, or need to live, in a gender other than that assigned at birth. Neither would HR records give any indication of transsexual staff numbers, given that staff will have been recruited having produced a passport (long since obtainable in acquired gender) rather than a birth certificate, or a birth certificate in their acquired gender courtesy of the Gender Recognition Act. It would be unlawful any way to pass on such details for the purpose of monitoring. A growing trend is to link diversity data to personal IT records – another measure which will disincline staff to record the fact that they have undergone reassignment.

Many other factors will legislate against transsexual people self disclosing on monitoring/survey forms. These include a natural reluctance to unnecessarily share personal and medical details – exhortations to be 'open and honest' have no place when directed at people who have a natural wish to privately pursue their life and career in their true gender and/or who have found that any realisation by others of their birth gender brings about a change in attitude. Some people, even without exhibiting the slightest degree of prejudice, appear to be unable to see transsexual people other than through a 'filter'.

Where monitoring and surveys have been attempted, pitfalls have been the misuse of terminology, the lack of understanding that whilst gender identity can be presented as a 'sub-division' of 'gender' it is offensive to ask "Do you identify as male/female/transsexual?", and the unacceptable inclusion of 'transsexual' within a question category relating to sexual orientation. The final insult to transsexual staff has been not to include their returns within those relating to their gender – but solely under a heading of 'transsexual'.

Monitoring questions in employer's schemes that relate to gender identity must be optional reply (not 'Prefer not to say'), and the data must be gathered anonymously. Additional safeguards will need to be built in to prevent disclosure by recognition through grade/age/location etc.

The onset of discrimination once a past change of gender identity becomes known has been proven by case studies within employment, including the Civil Service. However the usefulness of monitoring in indicating areas of discrimination, be it basic harassment or a barrier to career progression is recognised by transsexual staff themselves. Therefore, the support network **a:gender** has produced a paper 'Capturing Accurate Returns on Gender Identity in Equal Opportunity Monitoring and Staff Surveys' – available from the **a:gender** office – and is working with departments including the Home Office and with the Cabinet Office in order to identify a workable solution to this monitoring dilemma. It may be that monitoring of gender identity would be more usefully conducted by staff networks – or at least that returns by

transsexual staff could be processed by networks. Meanwhile **a:gender** will happily discuss and advise on monitoring initiatives.

## **6. PENSIONS & EMPLOYER GROUP INSURANCE POLICIES**

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

The process of equalising the state pension age of men and women to 65 begins in April 2010. After 2020, gender will no longer be an issue in this respect. The current age at which state retirement pensions become payable and liability to National Insurance contributions ceases is 60 for women and 65 for men. The determining sex for these purposes is legal sex or gender and will therefore be 60 for a transsexual man and 65 for a transsexual woman UNLESS a Gender Recognition Certificate is held, in which case the determining sex is the same as the acquired gender of a transsexual person – *see Part II 8*) This needs to be borne in mind in the administration of national insurance and pension issues.

### **Principal Civil Service Pension Scheme**

#### Members who do not hold a Gender Recognition Certificate and who go by a different name/assume a different gender

It is the responsibility of the individual PCSPS member to contact their pension administrator and inform them of the circumstances and the name by which they wish to be known. In accordance with PCSPS legislation the member's pension calculation must be calculated in the gender assigned at birth. Therefore members who fall into the above category should contact the Authorised Pensions Administration Centre (APAC) Gender Recognition Officer (GRO) - *for contact details see Annex F or H*. Telephone calls and e-mails will be treated in strict confidence and with total discretion.

Failure of members to comply with these guidelines will result in pension accounts being wrongly calculated and the possibility of members being distressed by inaccuracies to their data. APACs need to be able to rely on both the employer and the member submitting accurate data to eliminate any potential distress.

#### Members who do hold a Gender Recognition Certificate

Recognition of the acquired gender under the Gender Recognition Act has a direct bearing on 'pension gender' but it is the member's responsibility to forward the Gender Recognition Certificate (or an authenticated copy) to their Authorised Pensions Administration Centre (APAC) Gender Recognition Officer (GRO) - *contact details at Annex F and H*. Telephone calls and e-mails will be treated in strict confidence and with total discretion.

In accordance with the PCSPS legislation and Gender Recognition Act the member's pension record is required to be updated to reflect the possession of the certificate and, thereby, the member's acquired gender. Once updated the necessary re-calculations can be performed, to reflect the member's pension entitlement.

Failure of members to comply with these guidelines will result in pension accounts being wrongly calculated and the possibility of members being distressed by inaccuracies to their data. APACs need to be able to rely on both the employer and the member submitting accurate data to eliminate any potential distress.

### **Employer Group Insurance Policies**

Legal sex is linked to birth sex irrespective of gender reassignment UNLESS a GRC is held, in which case legal sex is that of the acquired gender. This means that when

registering staff for corporate insurance and benefits policies the Home Office should inform the underwriters if aware of the status of a transsexual employee who does not possess a GRC, since some insurers will otherwise invalidate a policy. Prior written consent by the employee should be obtained before disclosure of the information. Where an employer is unaware of an employee's transsexualism, the obligation to disclose falls on a non GRC holding employee, who could otherwise be liable in the event of an incident for which no valid insurance cover exists.

**Further detailed advice in the complex 'field' of pension entitlement and gender reassignment is available in the DTI's Guide for Employers –**

[http://www.womenandequalityunit.gov.uk/publications/gender\\_reassignment\\_guide05.pdf](http://www.womenandequalityunit.gov.uk/publications/gender_reassignment_guide05.pdf)

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

Bullying and harassment are common features in the lives of transsexual people but this does not in any way make them remotely permissible or acceptable. The Sex Discrimination Act Gender Reassignment Regulations (and the Chessington v Reed ruling) afford legal protection to transsexual staff from overt harassment and bullying (see *Part II 3 & 4*) Those legally of their acquired gender by virtue of possession of a Gender Recognition Certificate (see *Part II 8*) maintain protection under the above regulations as persons who have undergone gender reassignment and also derive protection as a man or as a woman in the same manner as other employees of their gender. Further, Gender Equality Duty requires public authorities to ensure their policies adequately cover employees who intend to undergo, are undergoing or have undergone gender reassignment against discrimination, including harassment bullying.

However working conditions can arise which create a difficult atmosphere that is not strictly speaking illegal. This is where well thought out and established diversity awareness training and procedures play a vital role. Somewhat paradoxically whilst such measures can create a workforce better *aware* of the nature and needs of transsexual people, in helping to engender full acceptance of the transsexual colleague, they can make the transsexual individual less continually *aware* of their transsexualism setting them on view and thereby apart from their colleagues. It is realistic that the transsexual employee should not expect overnight acceptance to a change of gender identity as this can take time and effort. Respect and understanding for the feelings of others should however earn respect and acceptance in return.

Transsexual people usually have a well developed sixth sense in respect to detecting hostility but should be careful not to mistake a confused reaction for a hostile one. A little time is needed for most colleagues to adjust and accept a colleague in the opposite gender role to formerly. In instances of frequent lapses into being addressed by former name or gender, sometimes a private explanation of how that unwelcome reminder to a past filled with anguish and pain is all that is needed to help the colleague adjust. Persistent or deliberate lapses, particularly when done in the presence of those unaware of the individual's transsexualism and instances of transphobic attitudes may require management intervention and perhaps invocation of anti-harassment policies. A well prepared and smooth transition of gender role at work will hopefully avoid this point being reached. But the policies are there for a reason and are appropriate in such cases. A transsexual employee has every right to work in an environment free from harassment and/or behaviour that creates feelings of unease or distress.

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 a view that in accordance with Home Office policy. Section 1.4 of HR Policy ‘Bullying, Harassment and Discrimination’ restates the Home Office’s commitment to Equal Opportunities by declaring that “This policy is based on the principles of natural justice and is applied fairly and equally to everyone, regardless of sex, including gender identity.”

### **Harassment**

Harassment related to transsexualism can be hostile or offensive acts or expressions by a person or group and may include: -

- derogatory remarks, ‘jokes’, innuendo or gossip
- threats of disclosing the transsexualism of an individual
- expressing or acting on stereotypical assumptions
- exclusion of transsexual persons from facilities
- display of or electronic transmission of offensive materials
- exclusion from social activity
- intrusive questioning of persons undergoing or who have undergone gender reassignment.

A refusal by a work colleague to work alongside a transsexual employee on grounds relating to their transsexual status is a clear breach of departmental Diversity and Equality policies and may also constitute harassment.

### **Discrimination**

Discrimination against transsexual staff could include: -

- refusal to promote or support a transsexual colleague
- exclusion from any work or work related activity on grounds of gender identity transition
- verbal or physical threats or sexual harassment
- revealing the transsexual status of an employee (In certain circumstances this will also constitute a criminal offence under section 22 of the Gender Recognition Act).
- a refusal to accept the transition framework on the grounds that the employee is not considered sufficiently transitioned to warrant change
- deliberate treatment of a transitioned individual differently to how they used to be treated
- refusal to acknowledge the rights of a transsexual person or failing to acknowledge that a transition has actually occurred.

### **Discipline**

Home Office management are expected to take a robust line in respect of harassment of or discrimination against transsexual staff. Further advice and guidance can be obtained from the EDT or the HR Discipline Team.

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

There should be no question of removing a staff member 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 full-time/workplace transition and may already be fully comfortable in dealing with the public. Others, while wishing to remain in a public

facing role, may appreciate discreet support at least at first. For instance, expecting a recently transitioned transsexual Immigration Officer to instantly feel self-assured when boarding coaches carrying intoxicated day trippers, alone and in an area remote from support, is unreasonable. "Goes with the territory" is not fair comment or attitude. Transsexual people are always aware of the possibility of violence against them, perpetrated for no more reason than the victim is a transsexual person. Managers should be similarly aware.

If an individual chooses to remain in a public-facing position and 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. Indeed it would be unlawful for a manager to comply with the wishes of that member of the public.

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.

## **9. SINGLE SEX FACILITIES**

Agreement needs to be reached as to the point at which the transsexual staff member commences use of sanitary facilities such as toilets and changing rooms appropriate to their new gender role. Difficulties can arise if objections are made by colleagues who knew the employee in their previous gender role but employees have to accommodate the employee and respect that person's right to privacy and dignity. Surgical intervention is not possible before satisfactory completion of the Real Life Test. Clearly it would be totally humiliating to expect a staff member who has commenced the RLT and is therefore expected to dress and live in that new gender role to then go into the toilet facilities of their birth sex or indeed be forced to use the disabled toilet. The point of change of social gender when a transsexual person commences permanent 'presentation' in that new gender identity, but is pre-operative, is a crucial part of the transition process and an appropriate marker for the change to use of single sex facilities appropriate to their new gender identity.

In the oft quoted case of *Croft vs. Consignia* (2003), the Court of Appeal ruled that a pre-operative transsexual was not discriminated against on the grounds of sex when temporarily denied the use of female communal toilet facilities, but held that permanent refusal could be an act of discrimination, even though gender reassignment surgery had not been undergone. As explained above, it is clearly inconsistent with the Real Life Test, itself a pre-condition to surgery, to insist that a pre-op transsexual use the toilet facilities of their 'birth gender'.

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

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

## **10. DRESS CODE**

A dress code, where one exists, forms part of the contract of employment. Some flexibility should be allowed to accommodate the process of transition from one gender role to the other – in some circumstances the law allows for this in that the Disability Discrimination Act 1995 prohibits discrimination on the grounds of

appearance - but the transsexual person is otherwise required to adhere to such a code, dressing as appropriate to the gender of transition from the agreed point of change. Further, a transsexual employee should be aware that it is likely to be of benefit to comply with a code as closely as possible so as not to attract unwelcome attention.

In a work situation where clothing or uniform is provided by the Home Office, the new clothing will be provided consistent with the change in gender identity on the same basis as when replacement clothing /uniform is required due to a change in size.

## **11. SEARCHING**

Written into the Sex Discrimination Act (Gender Reassignment) Regulations was a Genuine Occupational Qualification (GOQ) with regard to the conduct of intimate searches (*see Part II 4*) – in apparent contravention of the P. vs. S. & Cornwall County Council interpretation of the European Equal Treatment Directive (*see Part II 1*). It was then understood that the House of Lords ruling in the case of A vs. West Yorks. Police (*see Part II 7*) effectively disapplied this 'PACE searching GOQ' for all transsexual persons, and this was irrespective of any pre or post operative status – meaning that it was not legal to discriminate in employment against a transsexual person using intimate searches as the grounds.

Although A. vs. WYP preceded the coming into effect of the Gender Recognition Act, its detail was known at the time of the House of Lords debate and referenced in the comments of Lord Bingham and Baroness Hale, the latter concluding that the judgement did not revolve around the Goodwin case (*see Part II 5*) – clear reference, it would seem, by inference, that a Gender Recognition Certificate would not be necessary to conduct such searches.

Section 7B of the 2005 SDA regulations then appeared to reconfirm the GOQ on statutory searches – and various sources are now suggesting that transsexual people should be allowed to conduct such searches only if in possession of a Gender Recognition Certificate. (The same section does, however, suggest that the GOQ should not be applied, so as to debar employment, if there are other employees available to conduct the searching).

But for the reasons given in the House of Lords A. vs. WYP ruling (*see paragraph above*); and because European sex equality law does not require possession of a GRC, a British construct; currently received legal advice is that a Gender Recognition Certificate is not mandatory in order to conduct statutory searches, such as those under PACE. In simple terms, it would appear that such searches can be conducted if: -

- The transsexual person is, for all practical purposes, indistinguishable from a non-trans 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.

## **12. MEDICAL APPOINTMENTS / TREATMENT & RELATED ABSENCE FROM WORK**

### **Absence from the workplace**

The Gender Reassignment Regulations do not set limits on the time employers should allow a person undergoing medical and/or surgical treatment related to the gender reassignment process. They do state that an employer must not treat any less favourably such persons than they would treat persons absent due to illness or



to some other cause. Although the law does not offer any protection to employees who exceed any normal entitlement 'Best Practice' and Home Office HR Policy goes beyond mere compliance of the legal minima in this area: -

Section 1.4.5 of HR Policy 'Attendance Management' states: -

"Transsexual employees undergoing medical and surgical procedures related to gender reassignment may require some time off from work. Assessment by a qualified professional may take several months or years and appointments may involve the individual travelling long distances, and so are likely to be a day in duration each time. Following this stage there is typically a period of one or more years before the individual is accepted for reconstructive surgery, and the time required for this will vary greatly, from one week to around twelve weeks, depending on the nature of the surgery undertaken. Line managers must allow employees paid time off work to undergo this treatment and it should not be counted towards attendance management warning triggers. **Managers are reminded of the need for absolute confidentiality around an employee's gender identity and no reference to it must be made in any local records.**"

It should be noted that any enforced 'self-disclosure' by a transsexual employee of their gender history in order to ensure activation of the waiver of attendance management warning triggers must be regarded in the strictest confidence. Further, these procedures apply equally in the instance of an employee serving a Probation Period.

Disclosure of the reason for absence by the employee does not have to be made to an employee's immediate line manager. A staff member may elect instead to notify a welfare officer or an HR Advisor in cases where there is sensitivity surrounding the reason for absence. Such information and that given on doctor/hospital medical certificates should be treated with the same need for absolute confidentiality.

### **Medical Assessment/monitoring**

Staff members undergoing gender reassignment will require time to attend medical appointments that are an integral part of assessing suitability for, and monitoring progress of, reassignment. Successful completion of the Real Life Test is necessary before a transsexual person may receive referrals for gender reassignment surgery, so attendance at such appointments, usually at around three month intervals, is essential. Management should be aware that clinic procedures with regard to the appointment, scheduling and attendance, are often strictly applied and even rescheduling two successive appointments may incur rejection by the clinic.

### **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 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 and available locally, will vary. Much of the work involves practice of techniques learned in therapy. Understanding at work as progress is made is relevant.

### **Hair removal**

Transsexual women will also commonly undergo laser treatment and/or electrolysis to eliminate facial hair growth. Laser treatment sessions typically occur every four to six weeks over a ten to twenty month period. It is not however a suitably or completely effective treatment for all individuals. Electrolysis sessions may be weekly over a number of years. The need for hair growth prior to a session and time for skin recovery post-treatment can cause enormous problems to weekly routines of those undergoing treatment. Attendance at work/in public pre and post treatment can therefore be embarrassing and stressful for a transsexual woman and it is recommended therefore that management explore with the staff member provisions

within shift working timetables and flexi-time procedures that might facilitate treatment.

### **Hormone treatment**

Hormones may be administered as tablets, skin patches or by injection. In the latter case attendance for a medical appointment will be necessary, as it will for monitoring health levels as affected by the hormone intake.

### **Capability**

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

### **Surgery**

This section should be read in conjunction with *Part 1 3*) It may also be found useful to refer to the typical transition timetables as at Annex B, as these relate to actual cases.

Medical intervention is not a prerequisite for living in an acquired gender. Similarly, not all transsexual people undergo gender reassignment surgery. It is complicated, painful and accompanied by the risk of complications. Each individual decides, albeit with medical assistance, whether it is right for them to proceed as some may be physically unable to undergo the operation for health reasons. Otherwise the medical procedures inherent in gender reassignment are an essential response to the condition of gender dysphoria.

Transsexual women may undergo two or three surgical procedures, including complex genital surgery which is not necessarily a one-stage operation. Increasingly nowadays, transsexual men too are undergoing genital surgery, a multi-stage procedure.

In addition to genital surgery, other surgical procedures may prove essential to effect successful gender transition. Breast surgery, particularly in cases of asymmetrical development in transsexual women, may be necessary. Other processes, e.g. tracheal shave and rhinoplasty may be considered necessary to the individual's confidence in their gender transitioned role.

### **Nota Bene:**

#### **Gender Transition Related Workplace Absence (GTRWA)**

The Civil Service-wide staff support network **a:gender** has produced a report reflecting the range of, and background to, absence from the workplace that arises from an individual going through the process of gender reassignment. Data gathered from a survey of government department and agency HR procedures, and from the experiences of members of **a:gender** were used to establish the current treatment of such absences and to explore what 'Best Practice' should be in relation to such absences.

This 'Best practice' will be annexed to this Guide, together with an appendix to Section 1.4.5 of HR Policy 'Attendance Management', as formally endorsed Home Office HR management.

## **13. RETURN TO WORK**

Recovery from reconstructive surgery can take up to around three months depending on the treatment necessary, although there is a small possibility, as with any major treatment, that complications may result in prolonged incapacity for work.

A transsexual person taking leave for surgery is more likely to return fit for duties relatively swiftly as they begin in good health unlike an employee undergoing surgery as a result of illness or injury. Further, the surgery undertaken will have been long sought after by the transsexual person in their quest to get on with living in their true gender identity and the positive state of mind inherent in their sense of achievement may well hasten their fitness for return to work.

Whilst for many employees a return to full-time work after a period of convalescence is not a problem, for others there may be medical reasons why this is not appropriate. The debilitating nature of such surgery should not be underestimated. For instance, in some cases it may be some considerable time before a tendency to tire easily lessens. It may be that a 'phased return', involving a programme of alternative duties or reduced hours is appropriate but this requires consultation between not just the individual and line management but also their HR Advisor. An Occupational Health Service referral may also be necessary. Section 1.7 of HR Policy 'Attendance Management' gives guidance on this.

If incapacity for work is prolonged, and continues beyond normal expectations for the process undergone, a transsexual employee may be referred for assessment by the Occupational Health Service. Additionally a recommendation for self-referral to the Health and Welfare Service may also be made. In an extended case where an individual remains unfit for duty, normal long term sick absence procedures will apply.

#### **14. 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. To exist it requires of all an understanding and acceptance of the needs and differences of others. But an awareness of the diversity amongst people is acutely different to making people aware of their difference. In the context of a transsexual employee, acceptance by one's colleagues not as a transsexual, but as just another colleague, workmate, team member, manager, maybe friend and worthy of just the same respect as anyone else, is all that is sought.

# Annexes

## ANNEX A

[http://www.guardian.co.uk/uk\\_news/story/0,3604,1120764,00.html](http://www.guardian.co.uk/uk_news/story/0,3604,1120764,00.html)

### **A Life Cut Short by Prejudice**

#### **Mother blames small-minded attitudes for death of her transsexual daughter**

Helen Carter  
Monday January 12, 2004  
The Guardian

They called her a freak, said she was "Tranny Paula", and would shout abuse at her in the street. Vicious words which her mother cannot bear to repeat.

Graffiti were daubed on the walls of her flat and the windows were smashed. She was beaten up and had two bald patches at the back of her head where her hair wouldn't grow back after she was attacked, once with an iron bar and once with a beer bottle.

The abuse began a decade earlier, when her mother kept having to wash her school blazer after other teenagers spat at her and called her names. She suffered concussion and had her nose broken.

Paula Greenall died four months ago under the wheels of a car, after she had endured many years of verbal and physical abuse from other young people. A coroner recorded an open verdict last week - her mother, Carole, had hoped it would be accidental death.

Paula became a target because, 24 years ago, she was born a boy. She lived in the small village of Wheelton, near Chorley, Lancashire: Carole, 47, blames people's small-minded attitudes for Paula's death.

Paul Greenall had realised he wanted to be a girl when he was 14 years old. "I always thought she was quite an unusual child," says Carole. "She was intelligent and hyperactive. She never stopped talking and was inquisitive."

Carole began to realise something was amiss when her child was at high school. "She grew her hair and she looked a lot more feminine. She would pull her jeans in to show off her waist. I wondered if she was gay, but we didn't really talk about it."

Carole realised Paul was being bullied on the school bus to Albany high school, three miles away. Paul had a 100% attendance record in her first year, but it began to tail off. At the age of 14, Paul was at a girlfriend's house when Carole received a telephone call from the girl's mother. "She said she was worried about Paul; he was very depressed and she was worried he would do something to himself as he said he wanted to be a girl.

"At the back of my mind, I knew, but I would not let myself consider the possibility: I was just in shock. I had watched a programme about transsexuals and had a feeling that a lot of things were like Paul."

Their GP referred Paul to a psychiatrist in Chorley. "After an hour with Paul he said he thought she was a transsexual and he referred us to a specialist in London who deals with gender problems."

Paula was taken out of school and had two years of home tuition. She dressed in unisex clothes and went to a psychiatrist in London every three months.

But she became frustrated as she had to wait two years for female hormones and was given a lower dose than she wanted. She was also having injections to suppress production of testosterone.

"It was humiliating when we were out and people were shouting abuse at her," says Carole. "If I was with her she would feel embarrassed for me and would try and hurry us on. I don't know how she put up with it for 10 years."

At 17 Paula moved to Brighton, where she had a boyfriend for two years. Her mother believes this was the happiest time of her life.

But during this time, she began taking heroin. Paula moved back to the village when she was 19, into a housing association flat in Clayton Brook. "As soon as she moved into the flat, people started to spray graffiti and her windows were broken. She was becoming more dependent on drugs. Her front windows were smashed and were left boarded up for three months before they were replaced.

### **Beaten up**

"The police were worried, but nobody could help. She had to go on the bus into Chorley every day to pick up her methadone prescription and she would get beaten up and end up in casualty."

She is annoyed that Paula was ridiculed for a problem which was caused by a birth defect. "A psychiatrist explained to me that all fetuses start as female and then there are changes in the brain which make it male. Other people with children with birth defects get sympathy - but all we got was abuse."

She says Paula didn't just want to be a woman, she wanted to be a perfect woman. "She was very critical of herself and her hips were never quite shapely enough." When she was 22, Paula had breast implants - which she was delighted with - and she finally had a sex change operation in October 2002, 11 months before her death. "She was so pleased with the way she looked after the operation," says her mother. "It seems so terrible that she went through so much physical and mental pain in her life to meet such a terrible end."

On the day of her death Paula went to a pub with a friend and an argument developed after they had been drinking. They turned up at her mother's house, but she wouldn't let them in as they were in such a state.

"She was very upset and she ran off saying, 'I am going to kill myself.' But she had said that so many times before. Then I had the phone call from the hospital saying Paula's been hit by a car.

"One of my daughters said that some of the teenagers had said to her, 'We didn't mean what we said.' But she just said, 'It is too late'."

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## **ANNEX B(i)**

### **The story of a transsexual woman and Home Office employee.**

#### **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 transsexuals in the workplace but rarely do thoughts dwell on those who for whatever reason have not transitioned, maybe never will, to their core 'gender identity'. A pressure cooker is what immediately comes to mind. Work, particularly if you enjoy it, can be a welcome distracting release but only momentarily. More likely you alternate between frustratingly imagining yourself carrying out the same tasks, but openly as the woman you know yourself to be and being terrified of people knowing. Potential derision, humiliation, harassment and, in those days, the sack as either a security risk or just because you are transgender.

My youngest reaches 21 and I feel I can hold my head up in that I did my best for my children. And/but with no one dependent on me any more I can no longer cope with the fact that I hate myself, my body and my life. Guitar amp volume set at eleven for medicinal reasons no longer helps. I get more and more depressed, focusing on the next high, perhaps a weekend in the Manchester 'Village', to get me through the present but after each high I reach a deeper low. I became a lone drinker, at home with my bottles of Budweiser. Where that would have led me I'm not sure. Suicide?

Quite possibly. That would have been ironic seeing that suicide was used as a threat against me when someone I cared about learned of my gender dysphoria.

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

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

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

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

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

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

I am so proud of my parents who are wonderful and with whom I've found a depth of love that perhaps was never there before. Maybe one day I will get to see my children again. Nothing's free you see, a price tag on even partial happiness is unavoidable.

Someone special in my life would be nice but maybe that's being greedy! I can cope with my own company and besides, I've got some lovely friends. I no longer cry Bud-flavoured tears at bedtime as I gaze longingly at the pictures of Alice Cooper on the



wall. I knew he would understand and never desert me even if the rest of the world did. I have idolized him for over thirty years and it really doesn't matter that he doesn't know I exist as he has walked with me through those Dark Ages.

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

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

*A Home Office Staff Member*

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## **ANNEX B(ii)**

### **The story of a transsexual man and Home Office employee.**

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

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

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

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

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

So what has the transition process been like and how did I manage it in the workplace? Firstly I should explain that I was going to transition when I was twenty four but needed to put it on hold till I was thirty because my family's needs were

greater than any of our own due to my dad's illness. For those of us who reached puberty and adulthood before the late 80s the services for transitioning and ease of accessing them were patchy and sometimes extremely damaging. By the time the options to transition were more freely accessible many of us had been living in the gender assigned to us at birth for many years. We had jobs, families and responsibilities so any decision to transition had to take in the risk of losing these and the fallout for our loved ones. For most of my adulthood I lived a dual life, one gender at work and to family and the other socially. I dressed in fully male clothing, bound my chest and wore prosthetic devices, my hair was cut by a barber and, till I smiled or spoke, many people would assume I was a young lad.

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

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

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

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

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

I work in the Prison Service and transitioned whilst at work. I began by talking to the Governor and my line manager and they told the rest of the senior management team for me and we agreed issues such as toilet and locker room etiquette. (I agreed that I would use the female toilets till my periods ceased and then would use the men's) I used the informal network within the rest of staff to manage how the information spread, having first told my close workmates. People immediately started

to use my new name and change it on official documents but it took about two years for everyone to switch to he/him/his. I didn't take it as offensive if people made mistakes, which made it easier for everyone. Different people take longer to get their heads round it. I came in for a lot of teasing but it was inclusive, no one excluded me. If there was any nastiness then other staff must have protected me very well as I never experienced even a barbed jibe. Many of them came up in the first months to wish me well and to say they were "proud" of me or "congratulations."

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

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

*A Home Office Staff Member*

## ANNEX C(i)

### Male to Female Gender Reassignment Timetable

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

<b>Start</b>	Discussed gender dysphoria with GP (Funding rules bar GP from direct referral to a Gender Identity Clinic (GID))
<b>3 months</b>	Interview with local Consultant Psychiatrist (Reports to local Health Authority)  Intense Pulsed Light (IPL) & electrolysis facial treatments commenced on a monthly basis. (Not NHS funded)
<b>4 months</b>	Local Health Authority approve outpatient funding at Gender Identity Clinic
<b>7 months</b>	First interview at Charing Cross Gender Identity Clinic. (Advised to change name and commence 'Real Life Experience' (RLE) Put onto a schedule of quarterly appointments at Charing X GID)
<b>9 months</b>	Name changed by statutory declaration and RLE commenced
<b>10 months</b>	'Second opinion' interview at Charing X GID (Advised GP would be recommended to commence prescription of hormones)
<b>11 months</b>	Hormone treatment (ethinyloestradiol) commenced (Dosage subsequently doubled and then trebled - standard NHS prescription charges) Finasteride treatment commenced – (to be taken up until GRS - private prescription costing c £19 p.m.)
<b>1 year, 11 months</b>	Completed monthly IPL treatments and frequency of electrolysis increased to weekly. (IPL cost c £2,000 – electrolysis costs £19 p.w.)
<b>2 years, 4 months</b>	First Gender Reassignment Surgery (GRS) referral interview at Charing Cross GID. (Successful)
<b>2 years, 5 months</b>	Appointment with plastic surgeon (following recommendation by Charing X and referral by GP) re asymmetrical breast development
<b>2 years, 9 months</b>	Second GRS referral interview at Charing X GID. (Successful) In patient funding by local health authority for GRS requested

**2 years,  
11 months**      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

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

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

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

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

**PENDING**      Completion of electrolysis

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

## ANNEX C(ii)

### Female to Male Gender Reassignment Timetable

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

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

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

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

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

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

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

**PENDING** Some corrective surgery



## ANNEX D

### Specimen Transition Document

Dear Colleagues,

I think an open email is the best way to explain my situation to those of you to whom I have not spoken personally.

I have been attending the Gender Identity Clinic at Charing Cross Hospital for help with a condition with which I have been struggling since childhood: gender dysphoria. As a result of diagnosis as transsexual, I shall commence living full-time in the female role from .

My attendance at work dressed and acting as female will be a sudden change for you. However, as many of you know, for years I have lived socially as female and my appearance in that mode is, I believe, acceptable. It really has been a case of me acting the part of being masculine – trying to be what was expected of me – rather than me now pretending to be feminine. This does not mean that Fay Wray will suddenly replace King Kong but laser treatment, hormone therapy, etc, will, over a period of time alter my appearance and voice therapy will, I hope, create a corresponding voice. Additionally, I have legally changed my name from to and hope that you will get used to this in time.

I would like to thank those of you who have already shown me understanding and support but I appreciate that some may hold contrary views and find this change difficult to accept and/or adapt to; all I would ask for is your tolerance. A brief medical account of transsexualism, which includes an explanation of why the changeover can occur late in life is contained in the attachment, but please feel free to ask me any questions you wish.

Whilst wishing to be frank and honest about my personal circumstances, I hope that you will understand that I would like to keep my, and my family's, personal lives private from those who do not need to know, e.g. the press.

Thanks for bearing with me.

Sincerely,

**ANNEX E**

**Name Change Proforma**

I, FREDA ANN BASSETT of 123 Rhubarb Street, Tolpuddle, Dorset TP1 2AB a British subject DO SOLEMNLY AND SINCERELY DECLARE as follows: -

1. I absolutely and entirely renounce and abandon the use of my former forenames of FRED ALBERT and assume adopt and determine to take and use from the date hereof the forenames of FREDA ANN in substitution for my former forenames of FRED ALBERT
2. I shall at all times hereafter in all records deeds documents and other writings and in all actions and proceedings as well as in all dealings and transactions and on all occasions whatsoever use and subscribe the forenames of FREDA ANN as my forenames in substitution for my former forenames of FRED ALBERT to the intent that I may hereafter be called known or distinguished not by the former name of FRED ALBERT BASSETT but only by the name FREDA ANN BASSETT
3. I authorise and require all persons at all times to designate describe and address me by the adopted name of FREDA ANN BASSETT

AND I MAKE this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Statutory Declarations Act 1835.

DECLARED at )  
 )  
in the County of Dorset this day )  
of )

Before me,

Commissioner for Oaths/Solicitor.

**ANNEX F**

**HR Internal Process for Dealing with Staff who have Changed/are Changing Gender**

*Removed from www version of this document.*



## ANNEX G

### Specimen Letter to HR & Pay & Pension Service re Possession of a GRC

HRD

NI No.

**RESTRICTED: CONFIDENTIAL**

Dear

Please note that I hold a Gender Recognition Certificate (GRC) – authenticated copy attached – and am thereby legally recognised in my ‘acquired’ gender and entitled to all rights appropriate to that gender.

Kindly also take steps necessary to: -

- a) Protect my rights in my acquired gender, including pension and benefit entitlements.
- b) Prevent a breach of section 22 of the Gender Recognition Act 2004 caused by disclosure of ‘protected information’ (i.e. my possession of a GRC and ‘gender history’).
- c) Note that whilst I am still entitled to the protection afforded by the Sex Discrimination (Gender Reassignment) Regulations 1999, the exceptions under that legislation (i.e. Genuine Occupational Qualifications) no longer apply to me by virtue of my possession of a GRC.

I would appreciate confirmation of receipt of this letter, return of the GRC copy and details of your action taken.

Yours faithfully,

cc Pay & Pension Service

## ANNEX H

### Workplace Support / Information (Updated Sept. 2009)

*Removed from www version of this document – other than the a:gender details.*

#### **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: Dee Evans (Policy Lead) 0207 035 4253 (m.07786 096992)

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

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

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

Also at: Steel Level 4, Vulcan House, 6 Millsands, Sheffield S3 8NU

0114 207 2547 (m.07876 145411)

## **ANNEX I**

### **Support/Information Outside Work (Updated Sept. 009)**

#### **DEPEND**

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

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

Address: BM Depend, London, WC1N 3XX

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

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

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

Telephone: 0207 3117 0235

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

#### **FTM NETWORK**

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

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

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

#### **GENDER RECOGNITION PANEL**

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

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

Telephone: 0845 355 5155

Address: PO Box 6987, Leicester LE1 6ZX

#### **GENDER TRUST**

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

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

Telephone: 01273 234024

Address: PO Box 3192, Brighton BN1 3WR

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

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

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

Telephone: 01372 801554

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

## **GENDYS**

A network for all those who have encountered gender identity problems personally, transsexuals, transgendered people and gender dysphoric people of either sex, and for those who provide care, both professional and lay.

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

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

## **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**

A network established to give voice to intersex people.

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

## **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: [www.pfc.org.uk](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: [www.scottishtrans.org](http://www.scottishtrans.org)

Telephone: 07020 933952

Address: 30 Bernard Street, Edinburgh EH6 6PR

## **TG F.A.C.T.**

Facilitating, Assisting, Counselling and Training in support of gender transition at work.

Website: [www.positive2.belland.org.uk](http://www.positive2.belland.org.uk)

Telephone: Tina Livingstone 07814 492690

## **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)

