

# Transgender and work

Your rights as an employee



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Equal Opportunities Commission

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## Your rights as an employee

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

### Definitions

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

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

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

### **Your rights under the Sex Discrimination Act (SDA)**

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

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

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

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

### Exceptions

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

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

Temporary exceptions may apply during the transition process where:

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

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

### **During your transition and the Real Life Test**

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

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

### **Confidentiality**

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

### **Your legal status**

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

### **Gender Recognition Bill**

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

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### Further information

For further information on the current regulations see ***A Guide to the Sex Discrimination (Gender Reassignment) Regulations 1999***. Available from DTI Publications Orderline on: tel: 0870 1502 500  
fax: 0870 1502 333  
web: [www.dti.gov.uk/publications](http://www.dti.gov.uk/publications)

You can obtain further information on transgender issues from the following organisations:

#### **Press for Change**

web: [www.pfc.org.uk](http://www.pfc.org.uk)  
email: [letters@pfc.org.uk](mailto:letters@pfc.org.uk)

#### **The Gender Trust**

tel: 07000 790 347  
web: [www.gendertrust.org.uk](http://www.gendertrust.org.uk)  
email: [info@gendertrust.org.uk](mailto:info@gendertrust.org.uk)

### Next steps

If you think you have been unfairly treated at work because of your transgender status visit the EOC website, call the EOC Helpline, or contact your union for information and advice.

**web:**  
**[www.eoc.org.uk](http://www.eoc.org.uk)**

**email:**  
**[info@eoc.org.uk](mailto:info@eoc.org.uk)**

**helpline:**  
**0845 601 5901**

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