

GENDER REASSIGNMENT

Gender reassignment is a process undertaken for the purpose of reassigning a person's sex.

A person who proposes to, has undergone or is undergoing gender reassignment is protected from discrimination in employment matters. They are usually referred to as transsexual or transgender people – those whose gender identity doesn't match their appearance and/or anatomy and who decide to adopt the opposite gender to the one assigned at birth

Outside the employment context, from 4 April 2005, the Gender Recognition Act 2004 has ensured that transsexual people who have successfully registered with the gender recognition panel will be recognised, can marry, and be given a new birth certificate all using their acquired gender.

BBSRC aims to create a workplace culture that supports diversity and eliminates discrimination, unfair treatment, prejudice and harassment.

Gender reassignment definitions

Gender Dysphoria – A person with gender dysphoria may feel that they have a gender identity that is different from their anatomical sex. As a result, they may experience anxiety, uncertainty, or persistently uncomfortable feelings about their birth gender.

Transsexual Person – A person with gender dysphoria who feels a consistent and overwhelming desire to live their life in the gender that is opposite to that assigned them at birth.

Transgender Person – A person who through the use of hormones and surgery takes on the characteristics of the opposite sex and lives permanently in the gender role appropriate to that sex. They do not have to undergo full genital reassignment surgery to be protected under the Act.

Transvestite

The clinical name for a cross-dresser (a person who dresses in the clothing of the opposite sex). Generally, transvestites do not wish to alter their body and do not necessarily experience gender dysphoria.

Trans Person – A generic term generally used by those who identify themselves as transgender, transsexual or transvestite.

What are the implications of UK legislation?

- The Equality Act 2010, makes it unlawful for an employer to discriminate against an employee, job applicant or contractor on the grounds of that person's sex or gender reassignment. The Act covers recruitment and selection, transfer, training, promotion, access to work-related benefits, facilities and services, dismissal and any other detriment.
- It is unlawful to discriminate against someone who is undergoing, proposes to undergo, or who has undergone gender reassignment.
- Pressure to discriminate is also unlawful e.g. employees threatening not to work unless their employer dismisses a colleague who has decided to undergo gender reassignment.

- Harassment on grounds of gender reassignment will usually be a form of unlawful discrimination. Harassment is unwanted conduct affecting an individual's dignity. It may be related to age, sex, race, disability, religion or belief, nationality or other personal or protected characteristics; it can be persistent or isolated acts.
- It is unlawful to victimise someone by treating them less favourably because they have made a complaint about gender reassignment discrimination and/or asserted their rights under equality legislation. For example, a reference is not provided as the person previously made a complaint
- Individual rights under the Equality Act must be considered where the individual has been diagnosed as suffering from gender dysphoria and the condition is likely to last for more than 12 months, has lasted 12 months, or will remain with the individual for the rest of their life. The person must not be treated any less favourably than a person absent due to illness or for some other reason would be treated.
- Once a Gender Recognition Certificate (GRC) has been issued, the employee must be treated (with no exceptions) as a member of their new gender. Genuine Occupational Qualifications (GOQ) no longer exist.
- Under the Data protection Act 1998, information relating to transsexualism is considered 'protected information.' Once a Gender Recognition Certificate has been acquired, it is possible for a transsexual or transgendered person to change their birth certificate. Any information relating to an employee's former gender must not be kept on file. In cases where personnel records are kept by the RCUK Shared Services Centre Limited (hereafter referred to as RCUK SSC Ltd), HR managers should liaise with the SSC to ensure that the individual's personal record is correct.
- Colleagues must remember that an individual's gender identity is classed as 'protected information.' A change in gender identity must not be discussed including at social gatherings outside of work.
- Employees undergoing gender reassignment may take sick absence in the same way as other employees. However, consideration should be given to the provision of additional leave.

Role and responsibilities of line managers or supervisors

Managers need to ensure respect for the individual's dignity at work. Managers may need to manage the transition process with colleagues and customers who may have no understanding of the condition and who may confuse it with sexual deviancy.

Managers should be aware that protection against discrimination is provided by the Equality Act even if the individual only proposes to undergo gender reassignment and has not yet sought medical supervision. Therefore, a woman who decides to live permanently as a man but does not undergo any medical procedures is protected by the Act. For example, it is discrimination to treat her less favourably for being absent from work because she proposes to undergo (are undergoing or have undergone) gender reassignment than had she been absent due to illness or injury.

Similarly, managers should be aware that medical procedures for gender reassignment such as hormone treatment should not be treated as a 'lifestyle choice' but rather a recognised procedure.

Some of the issues relating to gender reassignment are of an administrative nature which will need to be dealt with by the HR department and / or the RCUK SSC Ltd. However, the line manager will be responsible for managing the day-to-day situation with the involvement of the person concerned.

- **It is important to respect confidentiality** if an individual has disclosed details of their previous identity. Revealing information of this nature to others is an infringement of privacy and legal rights. Access to past records should therefore be restricted to staff who require the information.
- **If the employee is to undergo the transition process**, the line manager should discuss how to handle the process with the individual.
- **Get support.** The local HR manager can make the necessary arrangements regarding changes to personal records (including updating records held by RCUK SSC Ltd) as well as give advice on handling other situations, such as dress codes. HR will also be able to give support in helping to manage the situation with other staff.
- **An employee who proposes to, is undergoing**, or has undergone gender reassignment is likely to face prejudice, discrimination and harassment from other employees. Managers will need to ensure that their staff adopt professional standards of behaviour at all times.
- **Where discrimination, prejudice and harassment arises**, such as name-calling, being ostracised and talked about, being asked about their private life, or being addressed in their old name, it should be dealt with in line with BBSRC's policies and procedures.

Guidance for employers on how to deal with issues that arise when an individual undergoes gender reassignment can be found at the Government Equalities Office website:

Sources of Further Information

Your local HR Department

Your local Diversity Champion

Your local Staff Support Group or Employee Assistance Programme

HR and Corporate Services Group, BBSRC Office

Linked Documentation

BBSRC Employment Code Section A3 Dignity and Diversity at Work

BBSRC Best Practice Guidance Notes