



# **TRANSGENDER PEOPLE IN EMPLOYMENT GUIDELINES**

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As the professional voice of the Scottish Police Service, the Association of Chief Police Officers in Scotland (ACPOS) is responsible for setting the strategic vision of a high-quality police service for everyone in Scotland.

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## **POLICY STATEMENT**

The Scottish Police Service seeks to attract, recruit and retain people of the highest calibre by applying the principles of fairness, consistency and equality in employment practices and systems. The service is not merely content to comply with legislation but recognises that understanding and valuing diversity is critical to ensuring success, achieving organisational objectives and improving public trust and confidence. To this end, the Association of Chief Police Officers in Scotland (ACPOS) is committed to recruiting, retaining and developing police officers, police staff, cadets and special constables from the range of backgrounds that reflect the communities served.

ACPOS recognises that there is extensive gender diversity within society and that traditional gender stereotypes are inadequate in reflecting the varied lives of all our employees. We recognise that the promotion of gender equality and the prevention of sex discrimination and harassment must fully incorporate the promotion of transgender equality and the prevention of transphobic discrimination and harassment.

ACPOS recognises that our workforce functions best when all our employees have their unique skills, personalities and perspectives valued and supported by each other. We recognise that there is nothing intrinsically wrong with gender variance and value transgender people simply being themselves. We recognise that people have the right to live with dignity and privacy in their self-identified gender and that there must be no exceptions to this when a transgender person is in the employment of the Scottish Police Service.

ACPOS recognises that Transsexualism (also termed Gender Dysphoria) is a genuine medical condition for which NHS gender reassignment treatment is available. Staff with this condition will be afforded the same treatment and support by their employer as if they have any other treatable medical condition.

Transgender staff are entitled to be treated with respect and entitled to perform their jobs free from harassment and unlawful discrimination. ACPOS views harassment or discrimination against any member of staff on any grounds as a serious disciplinary offence.

ACPOS recognises the right of any member of staff beginning gender reassignment to report to work as a member of the new gender as soon as the formal social transition and name-change occur.

Once official change in social gender has taken place, each Chief Constable expects all its staff to treat the member of staff in a manner appropriate to the new gender and to use forms of address which refer to the new gender and to use the new name and appropriate pronouns.

Once official change in social gender has taken place, the transgender member of staff will be permitted to use all facilities appropriate to their new gender. Each employer will provide appropriate recognition of the legal name change when the transition at work occurs, in the form of change of payroll records, computer logins, staff lists and all other relevant records and communications.

## **INTRODUCTION**

### **Overview**

This document has been formulated to provide general guidance and policy advice to staff and managers on issues for transgender people in relation to employment (including police officers, police staff, special constables and volunteers).

This document includes guidance provided in the “Guide to the Sex Discrimination Gender Reassignment Regulations 1999” published by the Department for Education and Employment.

Definitions can be found for the language used in this document on pages 6 to 7.

### **Public Access**

These guidelines are Not Protectively Marked.

## **AIM OF THE GUIDELINES**

ACPOS is committed to equality of opportunity, both in the provision of services and in our role as an employer. All staff, volunteers, applicants and customers have the right to be treated with fairness, dignity and respect and to ensure that the working environment is fair and supportive to individual needs. This policy aims to ensure that individuals who either self-identify as transgender people or who intend to undergo, are undergoing or have undergone gender reassignment receive respect and fairness at all times from the Scottish Police Service. The specific aims of the Guidelines are to:

- a) Ensure self-identified transgender people and individuals who intend to undergo, are undergoing or have undergone gender reassignment processes are treated with fairness and support in their recruitment, deployment and development.
- b) Provide management guidance on relevant UK legislation and the issues faced by transgender people and especially by those individuals who are undergoing or have undergone gender reassignment.
- c) Detail the appropriate procedure to be followed when a person applies to the Police service following gender reassignment or states that they are about to undergo gender reassignment whilst in employment with the Police service.
- d) Explain what support should be provided to the individual undergoing gender reassignment.
- e) Identify the responsibilities of the individual undergoing gender reassignment.
- f) Provide practical examples to illustrate specific points.

## DEFINITIONS

In order to understand the medical and legal implications of transgender issues and the impact they have on the Scottish Police Service equality agenda and employment practices, it is important to be aware of the variety of transgender terminology. The following section provides explanations of the terms used throughout this policy.

### **Transgender People or Trans People:**

These are inclusive umbrella terms used to describe a diverse range of people whose gender identity or gender expression differ in some way from the gender assumptions made about them when they were born. These terms can include transsexual women and men, cross-dressing people, androgyne people and others. It can be useful to think of the terms 'transgender' and 'trans' as being similar to the umbrella term 'ethnic minority' – within any umbrella term there will be significant diversity of identity, experiences and needs. For example, a Polish person who has recently moved to Scotland and a second-generation Asian-Scot may both come under the umbrella term of ethnic minority but their identities, experiences and needs may differ substantially. Similarly, a transsexual person and a cross-dressing person may both consider themselves to be transgender people but have very different identities, experiences and needs.

### **Gender Identity:**

This is a person's internal sense of where they exist in relation to being a woman or a man.

### **Gender Expression:**

This is a person's external gender-related clothing and behaviour (including their interests and mannerisms).

### **Transsexual People:**

This term refers to people who consistently self-identify as the opposite gender from the gender they were labelled at birth based on their physical body. Depending on the range of options and information available to them during their life, transsexual people may try to cope in a variety of ways. Many will manage (some while still children, most as young adults and some much later in life) to find a way to transition (undergo gender reassignment) to live fully in the gender that they self-identify as. Whether people receive medical or surgical interventions can depend on health issues, personal choice, social circumstances and other factors.

A Male-to-Female [MTF] **Trans Woman** is someone who was labelled Male at birth but has a Female gender identity and therefore is currently seeking to transition, or has already transitioned, to live permanently as a Woman.

A Female-to-Male [FTM] **Trans Man** is someone who was labelled Female at birth but has a Male gender identity and therefore is currently seeking to transition, or has already transitioned, to live permanently as a Man.

**Gender Dysphoria (also known as Transsexualism)**

This is a recognised medical condition for which gender reassignment treatment is available on the National Health Service in Scotland. Gender Dysphoria is distress, unhappiness and discomfort experienced by someone about their physical body not fully matching their gender identity (that is, their internal sense of where they exist in relation to being a woman or a man). Transsexual people usually experience intense gender dysphoria which is significantly reduced by transitioning to live as their self-identified gender and by taking hormones and perhaps getting surgery to make their physical bodies match their gender identity and gender expression better. Other types of transgender people may also experience various degrees of gender dysphoria, especially when unable to fully express their gender identity.

**Gender Reassignment (also known as Transitioning):**

These terms both refer to the medically supervised process that a transsexual person goes through to present themselves permanently in their new acquired gender. This process usually includes hormone treatment and may also include various surgeries depending on individual circumstances. Trans people who intend to undergo, are currently undergoing or who have previously undergone gender reassignment are legally protected from discrimination and harassment in employment, vocational training and the provision of goods, facilities and services. Not all persons going through gender reassignment undergo surgery. Surgery is not a key criterion in the process of definition of gender change - people can receive full legal recognition of their acquired gender for all purposes without undergoing any surgery.

**Cross-dressing People (also sometimes called Transvestite People):**

This term refers to people who dress, either occasionally or more regularly, in clothes associated with the opposite gender, as defined by socially accepted norms. Cross-dressing people are generally happy with their birth gender and do not want to permanently alter the physical characteristics of their bodies or change their legal gender. They may dress as the opposite gender for emotional satisfaction, erotic pleasure, or just because they feel more comfortable doing so.

**Androgyne People (also sometimes called Third-gender People, Bi-gender People and Polygender People):**

This term refers to people who find they do not feel comfortable thinking of themselves as simply either men or women. Instead they feel that their gender identity is more complicated to describe. Some may identify their gender as being some form of combination between a man and a woman, or as being neither. Like transsexual people, they can experience gender dysphoria (sometimes as intensely as transsexual people do) and may sometimes at least partially transition socially and may take hormones or occasionally undergo some surgery.

**Acquired Gender:**

This is the term used in the Gender Recognition Act 2004 to mean the gender role that a person has transitioned to live their life in and which matches their self-perceived gender identity. Therefore, the acquired gender of a Male-to-Female Trans Woman is Female. The acquired gender of a Female-to-Male Trans Man is Male.

## RELEVANT LEGISLATION

### **Sex Discrimination (Gender Reassignment) Regulations 1999**

The primary legislation is the Sex Discrimination Act 1975 as amended by the Sex Discrimination (Gender Reassignment) Regulations 1999. These Regulations clarify domestic law relating to gender reassignment and prohibit discrimination against transsexual people on the grounds of sex in - pay, treatment in employment and vocational training. The effect of the Regulations is to insert a provision that extends the Sex Discrimination Act to include gender reassignment. Employers who breach the Sex Discrimination Act 1975 in respect of discrimination on gender reassignment grounds will be liable in the same manner as they would, for example, for discrimination against a woman on grounds of sex. The level of award at Employment Tribunal for sex discrimination is unlimited. Transgender individuals are protected by the Sex Discrimination (Gender Reassignment) Regulations 1999 from the moment they first indicate an intention to undergo gender reassignment and protection is continuous during gender reassignment and ever afterwards.

### **Gender Recognition Act 2004**

The Gender Recognition Act 2004 gives legal recognition to transsexual people following a permanent change of gender and also gives them increased privacy protections. It sets out the process for individuals to apply for a Gender Recognition Certificate (GRC) after being assessed by a medical gender specialist doctor as having gender dysphoria (also referred to as transsexualism) and providing confirmation that they have been living full-time in their acquired gender for at least 2 years and intend to remain living in their acquired gender for the rest of their life. It is not necessary for someone to have undergone surgery to receive a full GRC.

Once a full GRC is issued to a person, their legal sex/gender henceforth becomes for all purposes their acquired gender – including for marriage and civil partnership purposes and for employment in posts where a Genuine Occupational Qualification to be a particular sex/gender applies. People with a GRC can apply for a corrected birth certificate if their birth was registered in the UK. A person who has received a GRC is not required to show their GRC to others such as employers or service providers. It is not an identity document and will not be carried on the person. Trans people do not need to possess a Gender Recognition Certificate in order to change over their day-to-day documentation or to use the toilet facilities of their acquired gender. Indeed, as it is necessary to live fully in the acquired gender for at least 2 years before applying for a Gender Recognition Certificate, a refusal by an employer or service provider to allow these changes at the start of an individual's gender reassignment process would unfairly prevent that individual from later being able to apply for a Gender Recognition Certificate and consequently would be discriminatory.

It is important to note that an individual may elect not to apply for a GRC. They still have protection from discrimination on grounds of gender reassignment under the Sex Discrimination Act.

### **Equality Act 2006**

The Equality Act 2006 amended the Sex Discrimination Act 1975 to place a statutory Gender Equality Duty on all public sector organisations, when carrying out their functions, to have due regard to the need: to eliminate unlawful discrimination and harassment; and to promote equality of opportunity between men and women. It places a responsibility on statutory services to pro-actively promote non-discriminatory practice, moving the focus away from an historic reactive complaints-orientated approach. The Gender Equality Duty protects the rights of women (including male-to-female trans women) and men (including female-to-male trans men). As part of the Gender Equality Duty, public sector organisations are required to have due regard to the need to pro-actively eliminate discrimination and harassment in employment and vocational training, for people who intend to undergo, are undergoing or have undergone gender reassignment.

### **The Sex Discrimination (Amendment of Legislation) Regulations 2008**

The Sex Discrimination (Amendment of Legislation) Regulations 2008 came into effect on 06 April 2008 and fulfil the UK Government's obligation to implement the Gender Directive (2004/113/EC) which was already in force elsewhere in Europe. It makes it unlawful to discriminate against someone who 'intends to undergo, is undergoing or has undergone gender reassignment' in the provision of goods, facilities or services. The Regulations also extended protection from harassment on grounds of gender reassignment by explicitly making an employer liable if an employee is harassed on grounds of gender reassignment by a third party (such as a member of the public using a service) during the course of employment. The Sex Discrimination Act already provided protection from harassment by colleagues on grounds of sex and on grounds of gender reassignment. Now, from 06 April 2008, the employer is held liable in circumstances where the employer knows that the person has been subjected to such harassment on at least two other occasions (whether by the same or a different third party) but has failed to take steps to prevent it.

### **Existing Employment Tribunal Case Law**

There have been conflicting judgements concerning transgender applicants in the Police Service. In 1996 an Employment Tribunal ruled in favour of the Police service and dismissed the application that the West Midlands Police discriminated against a transgender female in refusing to process her application to join the Police service as a police officer. In 1999, however, a different tribunal ruled against the West Yorkshire Police in similar circumstances. Both Police Forces had argued that they could not employ transsexual people as police officers as this would put the Service in breach of their legal obligations in conducting searches. The second tribunal concluded, however, that the incidence of search was so infrequent within the police officer's role that it could not be cited to override the employer's obligation not to discriminate against the applicant.

Neither ruling is binding on the other but the second case went to an Employment Appeals Tribunal. The ruling from this hearing set a binding precedent and West Yorkshire Police were found to have discriminated unlawfully on the grounds of sex.

In addition, a number of Police Forces have already supported officers through gender reassignment with little adverse impact on their operational effectiveness. This in itself creates viable comparators to support any future transgender people who suffer discrimination in these circumstances.

### **The European Convention of Human Rights and Gender Reassignment**

The European Convention of Human Rights could also be invoked, e.g. Article 8, right to respect for private and family life, Article 10, freedom of expression, and Article 14, prohibition of discrimination.

### **Disability Discrimination Act**

Under the Disability Discrimination Act, a person who has gender dysphoria could be protected under this legislation. The Disability Discrimination Act defines a disability as a physical or mental impairment, which has a substantial and long-term (that is, for more than a year) adverse effect on a person's ability to carry out normal day-to-day activities.

A person with gender dysphoria may experience fear, uncertainty or persistently uncomfortable feelings about their birth gender. This may also lead to anxiety and depression. There is often a long delay between the diagnosis of gender dysphoria and treatment. A person may have diagnosed gender dysphoria for over a year before receiving any treatment. It would be best practice to make reasonable adjustments for a person in this position. This can include adjusting working hours if necessary, redeployment if appropriate and allowing the person to be absent during normal working hours for rehabilitation, assessment or treatment.

## EMPLOYMENT

### **Considerations for the Employment of Transgender People**

In most cases, the gender of an employee is of no relevance to their ability to do the job. The Service Diversity/Equality/Equal Opportunities Policy states our commitment to the development and promotion of Equal Opportunities for all, regardless of “gender, race, nationality, ethnic or national origin, age, marital and civil partnership status, disability, sexual orientation, transgender status or religious beliefs”. Any references to gender automatically include discrimination on the grounds of gender reassignment. As such the Service is committed to ensuring potential applicants to the Service are not discriminated against in the recruitment process. All staff inclusive of police officers, police staff and special constables will be treated in the same non-discriminatory way.

### **Interviewing and Selection**

It should not be expected that applicants and interviewees for employment would necessarily wish to disclose their transgender status or gender reassignment history. Many have experienced prejudice and harassment as a result of disclosure. It is not a question that should be asked at interview, as it is not a relevant criterion in selection.

There is no obligation for a person to disclose their transgender status or gender reassignment history as a condition of employment. If they choose to disclose, this is not in itself a reason for not offering employment and non-disclosure or subsequent disclosure are not grounds for dismissal.

If Human Resources/Personnel departments are informed of the individual's transgender status or gender reassignment history, they will not disclose this to the recruiting manager, as this is not relevant information to the selection for the post.

Disclosures of this nature to other managers or departments will be dealt with in the same way as any other confidential personal disclosure.

### **Security Checks and Occupational Health**

The documents and forms used for security checks and medical screening will seek information that may lead to identification of a current transgender status or previous gender reassignment. This information will remain ‘confidential’ and the disclosure of this information will be restricted to those personnel involved in security and medical vetting procedures. Any subsequent paperwork that indicates the individual's transgender status or gender reassignment history will not be accessible to other personnel.

### **Genuine Occupational Qualifications (GOQ)**

Within the Sex Discrimination Act (Gender Reassignment) Regulations 1999 there are limited circumstances where it is possible for discrimination to take place against transgender people undergoing gender reassignment who do not yet have full gender recognition as their acquired gender (this will be the case for at least the first two years after starting to live in the new gender). One of these exemptions is where reasonable objection can be shown by an employer because of the need to preserve privacy and decency. In policing this might include the potential difficulty in the conduct of physical searches of any individual and the supervision of detained persons. This, however, is

not considered by the Scottish police service to be a barrier to employment as a police officer/staff, special constable etc. This is not a large part of a police officer's role and such duties can be re-allocated.

Whilst the Police Service, has not, to date, identified any post to which a GOQ applies, the principles that should be followed require that reasonable action in relation to the circumstances have been taken. With respect to recruitment to a post, the Police Service must be aware that failure to recruit an individual on the basis of their transgender status may be considered unlawful and lead to claims of unlawful discrimination. If the applicant has been issued with a new birth certificate under the Gender Recognition Act, then they must be treated according to their new acquired gender for the purposes of any post to which a GOQ applies. Once a person receives full gender recognition as their acquired gender, they are fully legally entitled to carry out physical searches in accordance with their new acquired gender.

A police officer or member of police staff working in certain roles e.g. "public-facing" roles may feel more comfortable being temporarily redeployed during the initial phase of gender reassignment. This issue should be discussed in detail with the individual to ensure that they are provided with the maximum support. No decision to move the individual will be taken without prior discussion and acceptance.

Whilst recognising that medical intervention is not a prerequisite and the need to preserve privacy and decency it must be recognised that police officers, during initial training, other residential courses and at times of major events are required to share accommodation with other officers. Therefore, it is important that the privacy and decency of all is maintained.

The deployment of police staff is an operational matter for the Chief Constable and it must be recognised that a move may be due to organisational need rather than any issues relating to the transition.

### **Records and Confidentiality**

Records maintained on the personal file will not overtly refer to a previous name, and records made prior to name change should be updated if appropriate. Access to these records showing change of name and any other details associated with the individual's transgender status or gender reassignment history, such as records of absence for medical treatment in this connection, should be restricted to senior staff who "need to know". "Need to know" refers to those directly involved in the administration of a process, for example the Occupational Health, Human Resources and Pension administrators. There may also be a need for other senior divisional or departmental managers to be aware of the individual's transgender status, particularly where they are working in an operational role involving searching (prior to the issue of a Gender Recognition Certificate). This, however, would only be done after full discussion with the individual.

Once a person (who has been living in their new gender for over two years) applies for a Gender Recognition Certificate, they gain additional privacy protections under the Gender Recognition Act 2004. Section 22 of the Gender Recognition Act 2004 makes it a criminal offence, with a substantial fine on conviction, for any person to inappropriately

disclose information which they have acquired in an official capacity about an individual's application for a Gender Recognition Certificate, or about the gender history of a successful applicant. If a person has a Gender Recognition Certificate or it could be assumed they might have a Gender Recognition Certificate (for example they have been living permanently in their acquired gender for at least two years), then this cannot normally be disclosed further in a way which identifies the person involved without that person's express consent or, more exceptionally, a specific order by a court or tribunal.

Section 22(4) of the Gender Recognition Act 2004 states the following specific exempt circumstances where it is not an offence to disclose protected information about a person's application for a Gender Recognition Certificate, or about that person's gender history:

- (a) the information does not enable the person to be identified,
- (b) the person has agreed to the disclosure of the information,
- (c) the disclosure is made by a person who does not know or believe that a full gender recognition certificate has been issued,
- (d) the disclosure is in accordance with an order of the court or tribunal,
- (e) the disclosure is for the purpose of instituting, or otherwise for the purposes of, proceedings before a court or tribunal,
- (f) the disclosure is for the purpose of preventing or investigating crime,

The Gender Recognition (Disclosure of Information) (Scotland) Order 2005 provides a further limited exception permitting disclosure for medical purposes of the protected information about someone's gender recognition history ONLY where the following three criteria are ALL met:

- the disclosure is made to a health professional; and
- the disclosure is made for medical purposes; and
- the person making the disclosure reasonably believes that the subject has given consent to the disclosure or the subject cannot give such consent (for example, unconscious).

It is vital, therefore, that gender change information is handled sensitively and professionally, and is not communicated to any person inappropriately, where the purpose of the disclosure is not in accord with the legislation above. This will be particularly important where communication is made over airwaves or other insecure method, or where printouts are used.

Transgender people may choose voluntarily to disclose at a secondary level, for example, answering an equal opportunities questionnaire, or asking for support from a line manager. The individual to whom a disclosure is made should observe strict confidentiality; any further disclosure should only being made with the prior consent of the individual.

If giving a reference for someone moving to a new job, a reference should be in the name which will be used in the new job and not disclose a former name. It may sometimes be necessary for a transgender person to disclose a previous identity in order for references from past employers to be obtained. In these cases strict confidentiality and respect for dignity should be applied.

## **Pensions**

The normal retirement age for police staff born after April 1955 is 65, but women born before 1950 can retire with a pension at 60 and those born between 1950 and 1955 retire sometime between 60 and 65. The Scottish Police Service will use legal sex (Gender Recognition Certificate or Birth Certificate) as the determinant for retirement, early retirement and the administration of pension schemes for police staff.

The police officers Police Pension Schemes (PPS) and the new Police Pension Scheme (PPS) will assist directly with any pension queries. As male and female police officers retire at the same age/length of service, the date of retirement is not affected.

## **Bullying, Harassment and Discrimination**

Bullying, harassment and discrimination are common and experienced by many transgender people.

Discrimination will not be tolerated in the Scottish Police Service. Bullying, harassment and anti-discrimination policies will also protect the rights of the transsexual person to have dignity at work. Policies should be reviewed regularly to ensure that they explicitly include transgender status.

Examples of discrimination:

- Refusing to promote as a result of transition.
- Refusing to support a member of staff who is transgender.
- Deliberately excluding a transgender person from any work or work-related activity on the grounds of their gender identity or gender expression.
- Dismissal of a transgender person for reasons connected to their transition or intention to transition.
- Verbally or physically threatening a transgender person.
- Sexual harassment of a transgender person.

**The quotations used throughout this document are from a variety of sources outwith the Scottish police service and are included for illustrative purposes, to help managers and staff understand some of the potential issues from the perspectives of transgender people.**

**“They wanted me to show them what had happened. What I had had removed so to speak. I thought that was pushing co-operation a little far.” (Workplace issue)**

- Revealing the transgender status of a person to others, either by disclosing information to individuals or groups – in other words, outing someone (note: this is also a criminal offence).

**“It wasn’t his fault. But it was my first day back and my line manager introduced me. He kept using the male pronoun. Not once, but over and over again. The room was packed. I think by the end of the introduction, no-one was in doubt that I used to be a man.”**

- A refusal by employers to respect the transition framework of the person, that is, not respecting a transition because the employer thinks that the individual has not transitioned sufficiently to warrant change. An employer will not be able to claim ignorance or confusion about transgender issues.

**“The hardest thing about telling work is that they first would not believe me and then said that I could not be regarded as a man until I had undergone penis construction. I pointed out that I did not want to do this. Besides, it takes ages to get that. Then they said I could not be regarded as a man until I had taken hormones. But I have to start living in role before I can start receiving hormones. So, I was in a stupid position of dressing as a man but being called Mary. Didn’t really lend itself to smooth transition.”**

- Deliberately treating an individual who has transitioned in a different way from how they used to be treated.

**“Nothing is said to my face, but everyone feels a little bit awkward. I know they talk about me behind my back. The room goes quiet if I come in, and they don’t gossip with me anymore. I’m still capable of appreciating office politics just because I wear a skirt to work.”**

- Refusing to acknowledge the rights of a transgender person and failing to acknowledge that a transition has actually occurred.

**“A member of the Women’s Group openly refuses to accept that I am now a woman. She says that you are a woman because you have grown up as a girl in a patriarchal society. That being a seven-year-old girl and learning to cope with oppression is the essence of female. Well, being stuck in the wrong body was pretty oppressive as well.”**

The key to ensuring that a transgender person feels comfortable in their employment is to respect the choices and needs of the individual and recognise any form of discrimination or potential opportunities for discrimination.

**"The first job I had was 2 years after transitioning and I was a volunteer in a cafe/support center. My manager eventually found out that I was a transwoman from his partner and that was when my problems started. He constantly referred to me as "he" or "him" and used to call me "son". He also outed me to members of staff and customers. It was no accident and was clear he was not even going to try accepting my new gender. This was a humiliating experience for me and I had to leave after 2 months. Due to this and other experiences I regularly have Counselling to help me recover from the abuse."**

## GENDER REASSIGNMENT PROCESS DURING EMPLOYMENT

### The Date of Transition

The first day that an individual attends work in their new gender should be considered as the date of transition. On the date of transition managers should ensure that everything is in place to avoid any contradictory information. Staff lists, organisational charts, databases etc, should all be updated and circulated – omission or contradiction can be embarrassing. The person should receive a new warrant/ identification card and, if relevant, a new door sign.

If there are any informal social groups, it is important that these are inclusive. Work will return to normal quickly, but other members of a team may be interested and curious about the person's new identity.

**“Today I started my first day at work as Sarah and so far I couldn't have asked for a better response. Everyone in the department has made the effort to use my new name and the correct pronouns. I received a supportive e-mail from one of the secretaries here. Early this morning the senior manager and then the head of the division came in to welcome me back, wish me luck and to let me know that if I have any issues to see them. The department representative for Human Resources also called to welcome me back and make sure that everything is OK. He also said he will set up my getting a new identification card. I've also been informed that our IT group will establish a second e-mail account for me, so that I don't lose any e-mail while making this transition.”**

In order for a person to be approved for hormones and surgical treatment as part of a process of gender reassignment, the NHS expects the person to demonstrate commitment by living in their new gender role for a period of time prior to receiving physical treatments. Due to extensive waiting lists and limited resources, it can take several years for someone to achieve their optimum level of transition. It is, therefore, possible that staff will be able to tell that the person is transsexual. This should be handled with tact, decorum and respect. If the person is ready to transition socially, this decision should be respected.

**“I made it through my first day at work as a man. It was a bit of an anti-climax – basically a normal day at work. I did get a few weird looks and a few visits from people, but I also did my usual work. However, the day went by without the usual sense of dread and depression that I ordinarily feel on Monday mornings. I even got out of bed on time for once!”**

### Post Social Transition Support

It can take several years to transition fully to the opposite gender. In order to receive a Gender Recognition Certificate (GRC), the individual must have “lived in the acquired gender throughout the period of two years ending with the date on which the application [for the period of the certificate] is made”, which means that from the day a person first

attends work in the opposite gender, the process of full transition (which does not necessarily have to include surgery) can take at least a further two years. During this time, the transsexual person will change. These changes depend on the nature of the transition, but there may well be further physical changes. The full transition will not be instantaneous and therefore, it may be necessary to update photographic identification throughout this period.

**“I think they thought that a magic wand would be waved and suddenly Susan would become Simon. It takes a long time to transition from female to male. They seem to think that I am a lesbian and treat me as such rather than treat me like a man.”**

Transsexual people who decide to undergo medical and/or surgical procedures relating to gender reassignment may require some time off 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 at least a day in duration each time. Following this stage, there is typically a further period of one or more years before the individual is accepted for reconstructive surgery.

**“I was supposed to see the new doctor on Monday. I had to take a half-day off from work to make the appointment. I was hoping that this would be the day I’d finally get started on HRT. When I got there I was told the doctor had an emergency and that they had to cancel my appointment. The soonest I can get another appointment is three weeks later. Talk about a let down.”**

The time required to undergo and recuperate from surgical treatment will vary greatly, from one week to around twelve weeks, depending on the nature of the surgery undertaken. Managers should ensure that adequate time off is given and that it is distinct from other sickness leave. Individuals undergoing gender reassignment are entitled to the same amount of paid sick leave as other staff, but consideration should be given to the provision of special leave. The medical procedures are not optional or cosmetic. They are essential responses to the medical condition of gender dysphoria. Managers should be supportive and sympathetic during this period.

**“Things at work continue to go smoothly. At home they continue to be an emotional roller-coaster.”**

It is likely that if the Police Force/agency has been supportive, the person will be happier at work. Secrecy and tension can have a detrimental effect on an individual's performance and if they can be open, they are likely to work more effectively. Negotiation and co-operation are essential pre-requisites for a smooth transition period. It is good practice, however, to respect the transition point determined by the person, regardless of the stage of medical transition. Medical intervention is not a prerequisite for living in an acquired gender.

### **Long Term Sickness**

As with all major treatment, the possibility exists that complications may arise as a result of medical treatment for Transsexualism resulting in prolonged incapacity for work. As with any other long-term illness the individual will be supported and monitored by the Occupational Health Unit and local management. If incapacity continues beyond normal expectations for the process undergone, a transsexual employee might be referred to Force Attendance Management Policies in the same way as any other person who becomes unfit for employment, or redeployed to a different role. The Occupational Health Unit and Police Medical Officer would make this decision.

## RESPONSIBILITIES

### Agreeing a process

In order to support and manage successfully a person's transition from one sex to the other, it is essential to ask the individual how they wish the process to be handled.

Contacting Human Resources should only be done with the person's permission to arrange the first meeting. Then Human Resources/Personnel departments can be involved in agreeing the process. Considered and well-documented discussions should identify and resolve potential areas of conflict before they arise. Nothing should be done without the consent/knowledge of the individual. A formal agreement will set out the rights and responsibilities of the Police Employer and the person undergoing reassignment and will include a clear route to advice and support from local management, Welfare and Human Resources/Personnel departments.

### Dress Code

Flexibility will be shown in the dress code policy to accommodate the process of transition from one sex to another. The same requirement for smartness, however, will continue as in published Police policy, The requirement for a remeasuring or fitting of uniform will be done according to the usual practice on weight loss/gain.

### Use of Single Sex Facilities

Part of the discussion process with the individual undergoing gender reassignment will be to agree the point at which the use of facilities such as changing rooms and toilets should change from one sex to the other. An appropriate marker for using the facilities of the employee's "new" sex is likely to be the change of social gender. Following discussions with the individual a transsexual person should then be granted access to "men only" or "women only" areas according to the sex in which they are permanently presenting. It is not acceptable to insist for the long term on a transsexual employee using separate facilities, for example a disabled person's toilet, as this is discriminatory under the Gender Equality Duty. This may be an acceptable short-term option whilst the individual is going through the earlier stages of reassignment.

### Searching - Practical Implications during the process of transition

Transgender people employed as police staff/officers, special constables will not be involved in the conduct or assistance/observation of searches that go beyond removal of outer garments if they have not received legal Gender Recognition under the Gender Recognition Act 2004. The frequency of this requirement, however, does not bar them from undertaking the general role, as these duties, when required, could be delegated to other staff. The transgender individual will receive personal and appropriate instruction concerning the levels of searches they are permitted to undertake at the time of engagement or when the gender reassignment process is notified to the employer. Where managers and colleagues are aware of the individual's transgender status, they will assist in ensuring that they are not placed in situations where inappropriate searches would be required. Where the individual's transgender status remains confidential, the individual will be responsible for informing the supervisory officer if any search would be inappropriate for them to conduct. These issues will be discussed with Human Resources at the point of recruitment or commencement of the gender reassignment process.

Where an individual who has undergone gender reassignment has received their Gender Recognition Certificate, then searching can be undertaken as per their assigned gender.

**Responsibilities for informing colleagues, customers and the public**

There is no general need or obligation to inform colleagues, clients and the public that a person is undergoing gender reassignment, or that a new recruit is transgender. Such information is only necessary where the relationship with that individual prior to their change of gender is to continue. In such a case an explanation is clearly necessary, although the transgender person should be consulted on how the information should be given. Where a person is recruited after they have received a Gender Recognition Certificate, there will not normally be any need to inform anyone of their gender reassignment history.

Due to the potential difficulties of searching (see paragraph on searching), if an officer is to continue working operationally during gender reassignment the Divisional/Departmental Commander and direct line manager must be informed of an individual's transgender status. In practical terms, it will be very difficult for a regular officer to continue to work operationally without their colleagues becoming aware of their transgender status, but the wishes of the individual should be respected as far as possible. If there are outstanding cases awaiting Court the Procurator Fiscal should be informed as soon as possible.

## **SUPPORT AND THE EDUCATION PROCESS**

### **Disclosure of gender reassignment process during employment**

It is recommended that the transgender person should accept responsibility for informing those who need to know, although the individual should be assisted in deciding how they wish this to be done. In some circumstances the transgender person may wish to make a personal explanation to some or all of the colleagues they work regularly with. In this case the Human Resources/Personnel Department and line manager (if they are already aware of the situation), will need to know when the disclosure is to take place and the depth of the disclosure, so they can agree and provide the appropriate support. The Police employer will ensure that education takes place on two levels: general information about gender reassignment and equality rights and specific briefing to explain the situation (in terms of workplace transition plans) of the particular person involved. Both the individual and their managers should be provided with information about the procedure to ensure there is mutual understanding about what needs to be done. At the point of change in social gender, it is common for transgender people to take a short time off work and then return in their new name and gender role.

### **Process for entering the organisation**

Individuals starting work in the Police Service who have already adopted their new social gender have no obligation to inform anyone other than the Human Resources/Personnel department. The Human Resources/Personnel department will need this information in order to carry out security checks. Other managers within the organisation do not need to be informed of the individual's transgender status unless they are working operationally as a police officer, (see section on 'Who needs to be informed if working as an operational police officer?' on page 18). The Human Resources/Personnel department will be responsible for supporting the individual at the commencement of employment. This may include holding meetings with the individual and their possible family to discuss any concerns. This must be done completely independently of the selection process. In the event of the individual's transgender status becoming known, the Human Resources/Personnel department and Occupational Health department will support the individual in dealing with this disclosure and conduct the education process as previously outlined and investigate who has made the disclosure (outing) as there is an issue of Data Protection (under the Data Protection Act) and disclosure under the Gender Equality duty.

### **Dealing with the Media**

Given the constant media interest that all police forces experience, the service must be prepared to respond to any 'outing' of a transgender person to the media. The general line that should be taken is to reaffirm commitment to equal opportunities and support for any individual undergoing gender reassignment. In the interest of confidentiality, the service will not name the individual. Should the media already be aware of the identity of the individual, the response provided by the service will be made in accordance with the individual's wishes. The media department will prepare a generic response that can be obtained through normal media liaison processes. The same general approach will be taken with both directly employed and contracted staff.

**Maintenance of Confidentiality**

Any deliberate or inappropriate release of confidential information leading to a transgender employee or recruit being 'outed' against their stated wish, whether internally or externally, will be treated as gross misconduct and subject to appropriate disciplinary action. Any deliberate or inappropriate release of confidential information may also be a criminal offence under the Gender Recognition Act 2004.

## HR PROCEDURE – (Transgender People in Employment Policy)

Procedure to be followed if someone informs you they are about to undergo the gender reassignment process

### **Contact the Human Resources/Personnel Department.**

Advice should be immediately sought from the Head of Human Resources/Personnel, HR Advisers/Personnel Officers or Diversity/Equal Opportunities Officer without identifying the individual unless with consent.

Issues which may need to be considered with involvement of the individual where applicable, include:

- Does the individual wish to stay at the current workplace or be redeployed?
- When and how should others be told (if at all)?
- Whether the person wishes to inform line management, colleagues and external organisational contacts personally, or whether this should be done on the person's behalf
- What is the expected time off for medical and surgical procedures?
- What support does the individual require?
- What amendments will be required to records and systems (IT, pensions, insurance, payroll etc)?
- Do unisex facilities need to be made available?
- How hostile reactions, harassment and media interest should be managed?
- What education needs to be provided by the service to assist colleagues to understand and provide appropriate support to the individual?
- When should the Occupational Health Unit (OHU) be involved? Is there a need for OHU to obtain a medical report from the person's GP or specialist supervising the gender reassignment process? Some individuals may transition without any need or OHU involvement.
- What are the elements of an agreement concerning the management of the change process, concerning dress/sex identity, toilet and changing facilities?
- Should access to the individual's contact details be restricted, perhaps on a temporary basis?

### **Selection Procedure**

The standard recruitment and selection procedure will be followed for transgender applicants in the gender they portray. However, additional considerations must be given throughout the process to ensure that the wishes of the applicant are ascertained and are informed of the practical difficulties, which may arise.

### **Confidentiality**

Individuals involved in the recruitment and selection process that become aware of an applicant's transgender status must maintain full confidentiality in relation to this issue, as it is highly sensitive.

All forms containing personal information concerning former names etc. must be kept separate from the application form and if successful at selection must be placed in a

sealed envelope and passed under confidential cover to the Human Resources/Personnel department or Recruitment department. Once the necessary checks etc. have been completed this information, with copies of birth certificates or any other paperwork that indicates the individual's transgender status, will be stored separately from the main Personnel File and will not be accessible by other personnel.

### **Pre-Employment Discussions**

In roles where there is a potential conflict in relation to searching, the Human Resources/Personnel department will discuss the implications with the individual and determine and agree an appropriate approach to this. This will include discussing the practical difficulties about the maintenance of confidentiality and the responsibility placed on the individual to ensure that they don't undertake inappropriate searching.

The Human Resources/Personnel department will be responsible, in partnership with the local department in supporting the individual at the commencement of employment.

### **Court Arrangements**

If an individual is a serving officer then arrangements should be made at court appearances for the officer's new name to be used. This can be done by a written agreement being issued to the court by the service each time the officer is called to appear in relation to a case, which commenced in the individual's previous gender.

## APPENDIX 1 - USEFUL ORGANISATIONS AND WEBSITES

### Transgender Equality Organisations:

#### **National Trans Police Association**

[www.ntpa.co.uk](http://www.ntpa.co.uk)

The NTPA is a UK-wide non-statutory staff association offering support to all Police Officers and Staff in matters relating to trans issues, be they professional or private.

#### **Scottish Transgender Alliance**

Equality Network  
30 Bernard Street  
Edinburgh  
EH6 6PR

[www.scottishtrans.org](http://www.scottishtrans.org)

The Scottish Transgender Alliance provides public services and employers in Scotland with training and good practice guidance on transgender equality issues and works to build the capacity of transgender support groups in Scotland. (Funded by the Scottish Government Equality Unit.)

#### **The Gender Trust**

PO Box 3192  
Brighton  
BN1 3WR

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

The Trust is recognised as an authoritative centre for professional people who encounter gender identity related issues in the course of their work. In particular this group includes employers, HR Advisers/Personnel Officers, health workers and information services.

#### **Press for Change**

BM Network  
London  
WC1N 3XX

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

Press for Change is a political lobbying and educational organisation, which campaigns to achieve equal civil rights and liberties for all transgender people in the United Kingdom through legislation and social change.

#### **The Gender Identity and Research and Education Society**

Melverly  
The Warren  
Ashstead  
Surrey  
KT21 2SP

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

GIRES initiates, promotes and supports research particularly to address the needs of those in whom there is a strong and ongoing desire to live and be accepted in the gender in which they identify, although different from that assigned at birth.

**Gender Reassignment Issues:**

**World Professional Association for Transgender Health**

(formerly the Harry Benjamin International Gender Dysphoria Association)

[www.wpath.org](http://www.wpath.org)

**Sandyford NHS Gender Identity Clinic**

Sandyford Initiative

6 Sandyford Place

Sauchiehall Street

Glasgow

G3 7NB

[www.sandyford.org](http://www.sandyford.org)

**Gender Recognition Panel**

PO Box 6987

Leicester

LE1 6ZX

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

**Legislation**

Sex Discrimination Act

<http://www.eoc-law.org.uk/cseng/legislation/sda.pdf>

The Sex Discrimination (Gender Reassignment) Regulations 1999

<http://www.hmso.gov.uk/si/si1999/19991102.htm>

Genuine Occupational Qualification

[http://www.eoc.org.uk/cseng/advice/the\\_law.asp](http://www.eoc.org.uk/cseng/advice/the_law.asp)

The Gender Recognition Act 2004

<http://www.dca.gov.uk/constitution/transsex/legs.htm>

The Sex Discrimination (Amendment of Legislation) Regulations 2008

<http://www.equalities.gov.uk/legislation/index.htm>

Disability Discrimination Act 1995

<http://www.hmso.gov.uk/acts/acts1995/1995050.htm>