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Transsexualism: frequently asked questions

I am planning to tell my employer that I am about to undergo gender reassignment. I am worried about his reaction.

Despite the legal protection against discrimination, your transsexualism will probably be a new and unusual issue for your employer and colleagues to deal with. However, you are entitled to expect your employer to deal with the matter sensitively and with discretion. Your employer should discuss with you, and reach agreement with you, about how to plan for: informing colleagues and managers (and clients, if relevant); changing personnel records; what toilets will be used; and so on. Your employer should respect your wishes regarding medical and personal confidentiality. Because the situation is probably going to be novel, be prepared to guide your employer on how to handle it. You can get support from the organisations listed in the **Taking it Forward** Section.

I told my employer that I was intending to change my gender and wished to come to work dressed in my new gender identity. My employer has refused.

Be prepared to discuss and educate your employer about the importance of the 'real life test' for the gender reassignment process. If your job does not involve contact with the public, or your organisation does not have a strong corporate image, you are perfectly entitled to come to work dressed in your new identity. However, you may find that your employer is particularly resistant if your job involves direct contact with the public, and the corporate image is considered very important. It may be that you have to work out some kind of compromise, at least initially (for example transferring to different duties away from the public). However, this should not be a permanent arrangement and you should expect to be able to work at your usual job in your new identity eventually. If your employer continues to insist that you cannot come to work in your new identity, and you are forced to resign you can bring a claim to the employment tribunal.

I am presenting as a woman as part of the 'real life test', but my employer won't allow me to use the women's toilets at work because female staff will complain.

You are entitled to expect support from your employer, including holding any necessary discussions and explanations with your colleagues. It is not reasonable for your employer to insist that you continue to use the men's toilets, or the disabled toilet, on the grounds that female staff will object. Just as your employer has an obligation to create a positive atmosphere at work in respect of sex equality and racial equality, he must also take any necessary steps to dispel any prejudice and ignorance about transsexualism amongst staff. If your employer continues to refuse to allow you to use the toilets at work appropriate to your new gender, you can as a last resort bring a sex discrimination claim.

I have taken time off work to undergo the necessary medical treatment for gender reassignment. My employer is threatening disciplinary action because of my sickness record.

You are entitled to the same sickness absence and pay as any other member of staff with a medical condition. If you are disciplined and/or dismissed on medical grounds in circumstances where other employees with a poorer absence record than yourself were not, you can bring a claim to the employment tribunal. However, the Sex Discrimination Act (SDA) does not protect you if you are dismissed for exceeding your employer's normal entitlement to sick leave and pay. For further information about bringing a dismissal claim under the SDA, contact our Helpline on 08456 015 901


I am being harassed at work because my colleagues have found out that I am a transsexual person. What can I do?

You should ask your colleagues to stop harassing you and you should report their behaviour to your employer who should take steps to stop the harassment from continuing. If the harassment continues or your employer fails to deal with your complaint to your satisfaction you can make a claim to an employment tribunal against your employer and your colleagues who are carrying out the harassment.

Your employer has a legal obligation to protect you from harassment in the same way that he is obliged to prevent racial and sexual harassment in the workplace. If you would like



Need more advice?
Call the EOC Helpline
0845 601 5901



www.eoc-law.org.uk
The website for legal advisers on sex discrimination & equal pay

Employers...
Join the Equality Exchange for best practice




more information about sexual harassment, and how to deal with it, see the section on ***Sexual Harassment***.

I was dismissed from my job when my employer discovered that I am a transsexual person. What can I do?

You can make a claim to an employment tribunal if the reason for your dismissal was because of your transsexualism. Your employer might claim that you were dismissed for another reason - for example, lateness or misconduct. The onus will be on you to show that it was your transsexualism, and not any other reason, which caused the dismissal. One way of doing this is to bring evidence of other members of staff with the same time-keeping record, or similar misconduct, who were not dismissed.

If you would like more information about bringing a case, see the section on ***Dismissal and Redundancy***.

I applied for a job and was unsuccessful. I believe that this may have been because I am a transsexual person. What can I do?

In order to successfully claim sex discrimination, you have to show that you would have been appointed if not for your transsexualism. If the employer admits that this was the reason, check to see if a Genuine Occupational Qualification (GOQ) applies to the post. If a GOQ does not apply, the employer could have acted unlawfully. The onus will be on you to show that ***but for your transsexualism***, you would have been appointed. One way of doing this is to show that you were better qualified and experienced than the successful candidate. For further information about how to go about bringing a recruitment claim, please see the section on ***Recruitment and Selection***.

Equal Opportunities Policies

Employers should have a detailed equal opportunities policy which is well publicised to managers and staff alike. The policy should cover gender reassignment, and should give details about a complaints/ grievance procedure. A policy should provide useful and clear guidance on good practice in personnel matters to ensure consistency of approach and to minimise the possibility of tribunal claims. You may wish to encourage your employer to update the equal opportunities policy at work to include gender reassignment if this is not already covered.

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