

Human Resources

Supporting Transsexual Employees

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South Yorkshire
Fire & Rescue
WORKING FOR A SAFER
SOUTH YORKSHIRE

SUPPORTING TRANSSEXUAL EMPLOYEES

INTRODUCTION

1. South Yorkshire Fire and Rescue (SYFR) is committed to establishing and maintaining a positive working environment where the dignity and respect of employees is not undermined. It is committed to working practices that ensure the fair treatment and professional and personal dignity of all its employees. No employee will be treated less favourably on the grounds of race, gender (including gender reassignment), disability, age, sexual orientation, religion or belief or for any other reason which cannot be justified in job related terms.
2. SYFR wants to be as supportive as possible to transsexual people. This policy has been developed to advise managers of their responsibility to support employees who have either changed their gender identity or who are changing their gender identity during the course of their employment.

BACKGROUND

3. Transsexualism, also known as gender dysphoria, is an overwhelming and consistent desire to live and be accepted as a member of the gender opposite to their gender at birth. Gender dysphoria is a recognised medical condition for which treatment is available both privately and through the NHS. Estimates vary, but perhaps one man in every 12,000 feels he is a woman. The proportion of women who feel that they are men is smaller, but they too are convinced that their birth gender does not match their gender identity.¹
4. Sometimes transsexual people refer to themselves as *transgender*; this is usually because the issue is about gender rather than sexuality. The term transgender is also sometimes used as a broader term that can include people who temporarily change their gender and appearance e.g. transvestites and cross-dressers.
5. Some transsexual people take hormones and undergo cosmetic treatments to alter their appearance and physical characteristics. Some undergo surgery to change their bodies to conform more to their acquired gender.
6. In line with government policy, SYFR uses the terms *transsexual people*, *transsexual person*, *transsexualism* and *gender reassignment*. However, SYFR recognises that some transsexual people may dislike certain terms (such as transsexual or sex change) and will endeavour to use terms more acceptable to individuals.

LEGAL SITUATION

7. The Sex Discrimination Act (Gender Reassignment) Regulations 1999 amended the Sex Discrimination Act 1975 by extending it to prohibit discrimination on grounds of gender reassignment in employment and training. It is unlawful discrimination to treat a person less favourably than another on the grounds that a person intends to undergo, is undergoing or has undergone gender reassignment.

¹ Statistics provided by the Ministry of Justice.

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A claim can, therefore, be brought against an employer (or prospective or ex-employer), or against an individual employee, for any unlawful discrimination, including harassment, victimisation or bullying, in the same way as any other claim of unlawful sex discrimination. The Sex Discrimination Act covers an applicant for employment or an employee from the moment they inform their employer/prospective employer of their gender identity or of their intention to commence gender reassignment. The Act expressly makes it unlawful to treat an employee less favourably because of his/her absence due to undergoing gender reassignment than an individual would be if the absence was due to sickness or injury.

ABSENCE FROM WORK

8. The extent of any surgical procedures will vary according to the needs of the individual. Minor surgical procedures, such as the reduction of the Adam's apple or breast enhancement/reduction, may require less than two weeks absence from work, but gender reassignment surgery, which is performed on the genitals, is likely to require a minimum of two or three months recovery period. The timetable and process of surgery may differ from person to person and according to whether the person is changing from male to female or female to male. The Act makes it clear that there is a duty on employers to treat absence for gender reassignment in the same way as sick leave.

MEDICAL APPOINTMENTS

9. While going through the process of gender reassignment an individual may need to attend medical appointments and the usual policy for taking time off should be followed. When an individual needs to be absent for treatment or surgery then the usual sick leave arrangements should be applied. Subject to the exigencies of SYFR, flexibility will be given to individuals who may need to take holiday or rearrange working hours utilising the flex-scheme, in order to attend additional appointments, e.g. electrolysis or laser treatment.

IMPACT ON THE INDIVIDUAL

10. Gender transition demands a great deal from the person experiencing it, and usually creates a tremendous emotional burden, which may manifest as acute anxiety, aggression, depression or an inability to mix socially. It is important for managers to recognise the stress which the person is likely to be experiencing and appreciate that much of this may be resolved as transition proceeds.

OCCUPATIONAL HEALTH UNIT

11. The role of the Occupational Health Unit (OHU) is to advise SYFR on fitness for work issues and to provide appropriate advice on medical issues, which may impact on an individual's ability to carry out the full scope of their job.

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12. Occupational Health cannot seek to replace the specialist medical advice, assessment and support required by individuals who are considering gender reassignment and would not presume to offer any opinion to individuals who are considering this. However, they are able to offer confidential support and counselling for those who are suffering emotionally at what can be a distressing and confusing period of their lives.
13. Post surgery advice may also be needed regarding any temporary adjustments which may be required to assist an individual to return to work, who may not initially be able to undertake all aspects of their substantive role, i.e. modified duties.
14. Any individual referred to, or self-referring to, Occupational Health can expect the issues to be dealt with in the strictest confidence, as would be expected from any other practitioners providing care.

CONFIDENTIALITY

15. Many people may wish to keep their transsexual status as private as possible, whilst others will be willing to discuss it confidentially or even openly. It is important that the employee's personal privacy is not breached and that personal information about individuals is kept wholly confidential and not disclosed or discussed without their permission.
16. There is no general obligation for a transsexual person to disclose their status to an employer/prospective employer.

UNIFORM AND CLOTHING

17. The transsexual employee should be supplied with relevant clothing that is appropriate to their gender identity. An employee who is in the process of changing their gender should be given flexibility to accommodate the process of transition. For example, in the transition from male to female, flexibility should be allowed over hair length and style and make up etc. The employee should be provided with any new uniform as soon as is appropriate, in order for them to try it on at home and become comfortable wearing it.

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18. It is important for managers to emphasise to the individual that SYFR will be as supportive as possible. A first step being to confirm who they wish to have as their main point of contact in relation to the issue – this will be the person who will help to support the transition from the perspective of SYFR. It is also important that a discussion takes place in order to develop a written action plan and agreement for managing the transition at work. Notes recording any discussion should be made and kept confidentially by the Equality and Diversity Manager. Such an action plan should include:
 - How and when colleagues will be informed

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- A date when the employee's gender identity will change from the perspective of SYFR

INFORMING COLLEAGUES

19. If someone is changing their gender during the course of their employment with SYFR, then colleagues will need to be informed. How this is done depends on the needs of the individual, and SYFR will be guided by their wishes throughout the process. Generally, there will need to be an announcement to colleagues working directly with the individual. The aim should be that everyone involved attends a briefing session. The transsexual employee may prefer this to be done whilst they are on leave, or they may wish to make the announcement themselves. This is likely to be a difficult decision and the employee must be supported whatever they decide. It may be helpful to contact the Equality and Diversity Manager for further support or to arrange an awareness session for colleagues.

CHANGING GENDER IDENTITY AT WORK

20. The date for changing the gender identity should form part of the action plan which is decided between the employee and their chosen point of contact within SYFR. Both parties need to be aware that flexibility may be needed about the exact date.
21. All briefing and awareness sessions should have been completed by this date.
22. If relevant, a new locker in the appropriate area, along with a new name badge and all personnel records must be updated in preparation for the transition (see paragraphs 29-30 for information on personnel records)
23. Managers need to be aware of genuine concerns that members of staff may have, and any issues should be promptly identified in order for them to be successfully resolved. However, there may still be people who may respond in an unhelpful way and this possibility should be discussed with the transsexual employee concerned and they should be consulted as to how they would prefer this to be managed if it happens.

CHANGE OF NAME

24. All members of staff must refer to the transsexual person by their chosen name and use pronouns appropriate to their gender identity.

HARASSMENT, VICTIMISATION, DISCRIMINATION OR BULLYING

25. Any incidents of harassment, victimisation, discrimination or bullying must be dealt with in accordance with the Dignity at Work Policy.

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TOILETS

26. A common issue raised by employees is the use of toilet facilities. It should be established that once an individual begins the process of changing their gender identity that they will use a toilet appropriate to their new gender and every effort will be made to deal with the concerns of any employees. It is not acceptable to insist that a transsexual person use the facilities of their birth gender, or a disabled toilet, which would amount to unlawful discrimination.
27. Transsexual employees are entitled to expect support from SYFR which should include discussions and explanations to other employees by manager/s about the practical implications of gender reassignment as and when necessary.

LOCKER ROOMS AND SHOWERS

28. The majority of stations and SYFR premises have separate facilities for male and female employees. Transsexual women and transsexual men will be able to use the appropriate facilities for their gender identity, or will be offered the option of individual or private facilities if available, but it is at the discretion of the transsexual employee whether they use alternative facilities where they exist. It is not acceptable to insist that they use the facilities of their birth gender or disabled facilities, as this would amount to unlawful discrimination.

PERSONNEL RECORDS AND REFERENCES

29. The forms used for security checks and medical screening will seek information that will lead to identification of transsexual status. This information must remain confidential and the disclosure of this information must be restricted to those personnel involved in the procedures. Any subsequent paperwork that indicates an individual's transsexual status must not be accessible to other employees.
30. New personnel records must be created for employees who are changing their gender identity, rather than just amending the current information.

PENSIONS AND RETIREMENT

31. For pension purposes, transsexual people can only be regarded as the sex recorded at birth until they have obtained a new birth certificate under the provisions of the Gender Recognition Act 2004. Otherwise, those born prior to April 1955 can only claim at the age appropriate to the sex on the original birth certificate. SYFR has a responsibility to take suitable steps to keep confidential the reason for the individual's apparently early or late retirement.

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DEALING WITH THE MEDIA

32. Given the often sensitive nature of gender reassignment, there is always the possibility of intrusion from the media. In the interest of confidentiality the name and specific post of the individual should not be revealed and the Corporate Communications Section, together with Human Resources, should liaise with the employee on formulating any response. If the identity of the individual becomes known to the media, any risk to the individual should be assessed and if necessary measures put in place to protect them, possibly with control measures, such as redeployment away from contact with members of the public. Such measures must only take place with full agreement and the cooperation with the employee.

The wishes of the individual must always be considered in any response given to the media.

If you require any further guidance on this policy please contact the Human Resources Directorate.