



2012

Press For Change

Factsheet 02

**Changing Names and Gender;
A Guide for Employers and
Other Organisations**



Press For Change: Seeking Respect and Equality for ALL Trans People
The UK's Leading Experts on Transgender Law

A Guide to Changing Names and Genders for Trans People, Employers and Other Organisations

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PART 1. IN NEED OF ADVICE?

Please Choose an Expert - NOT any old Trans person.

Just because a person is trans, does not mean that they will have spent their life becoming an expert in transgender lives and issues.

This is a common mistake. Many organisations, who want advice or information think it acceptable to consult with the one transgender employee they have. This can be a significant mistake, leading to inadequate policies being developed, and resulting in poor practice.

Most Trans people want to safely and quietly transition into their preferred gender role, and then get on with the life they have fought so hard to get. Some may not have that choice because, for a long time, they will look like they are trans.

Ultimately, with hormone therapy, most Trans people will largely pass as an ordinary member of their preferred gender. When this happens, most will let their Trans history disappear whenever possible. Nevertheless, that is not always the case. Increasingly, Trans people are choosing to be out and proud about their gender history.

However, that will not make them an expert. Most will want to spend their free time enjoying their new life, their hobbies and their friendships. They will choose to leave the expertise about transgender people lives and concerns to one of the organisations, such as Press For Change.



1.1. Glossary

These are key terms and their meanings. Using these terms wisely will help transgender people feel more welcome in your organisation.

Transgender: An umbrella term (adj.) for people whose gender identity and/or gender expression differs from the sex they were assigned at birth. The term may include but is not limited to; transsexual people, people who cross-dress and other gender-variant people. Transgender people may identify as female-to-male (FTM) or male-to-female (MTF). In the UK it is usual to shorten the term to 'Trans'. Trans people may or may not decide to alter their bodies hormonally and/or surgically.

Trans man / Trans men: People born female bodied but who have a gender identity like that of a man.

Trans woman / Trans women: People born male bodied but who have a gender identity like that of a woman.

Trans people: Members of the Transgender Community.

Transsexual Person: A term originating in medicine and psychology. While some transsexual people still prefer to use the term to describe themselves, many people now prefer the term *trans* to *transsexual*. Unlike transgender, transsexual is not an umbrella term, as many transgender people do not identify as transsexual. **It is best to ask which term an individual prefers.**

Transvestite: Often used in a derogatory way, *see Cross-Dressing*

Transition: Altering one's birth sex is not a one-step process; it is a complex process that occurs over a long period of time. Transition includes some or all of the following personal, legal and medical adjustments: telling one's family, friends and/or co-workers; changing one's name and/or gender on legal documents; hormone therapy; and possibly (though not always) one or more forms of surgery.

Gender Reassignment Surgery (GRS): Refers to surgical alteration, and is only one small part of transition (*see Transition* above). Preferred term to 'sex change operation' or 'sex reassignment.' Not all transgender people choose to or can afford to have SRS. Journalists should avoid overemphasizing the role of SRS in the transition process.

Cross-Dressing: A cross dresser will occasionally wear clothes traditionally associated with people of the other sex. People who cross-dress are usually comfortable with the sex they were assigned at birth and do not wish to change it. Not to be used when a person intends to transition, or has transitioned,

PART 2. WHO THIS GUIDE IS FOR?

A transsexual woman, who had been embroiled in several months of discussions about changing her name and gender on her bank account, said:

“we need a simple but comprehensive guide to prevent middle managers ‘making it up on the spot’.”

This is that simple, but comprehensive guide.

This guide is for managers and administrators in all types of organisations to enable them to understand the processes, and their legal obligations when a transgender or transsexual (trans) person approaches them to request recognition of a change of name or gender in their records.¹

This guide advises employers and other organisations about:

- ➔ The Equality Act 2010 and the Gender Recognition Act and how they affect organisations and their relationships with Trans people,
- ➔ The legal ways Trans people use to can change their names, titles, pronouns and gender,
- ➔ What organisations must do when a Trans person requests that their change of name and gender pronouns are respected, and
- ➔ What organisations must do when a Trans person requests that their legal change of gender is recognised

¹ This Guide has been written by Stephen Whittle, OBE, PhD, Professor of Equalities Law at Manchester Metropolitan University. During the last 20 years, Stephen has been a key advisor on transgender people’s rights to the UK and other Governments, the UN and the European Council and Parliament.

PART 3. THE LAW & GENDER REASSIGNMENT

This section provides a clear guide to the current relevant legislation that details the law as it relates to transgender and transsexual (Trans) people

3.1. The Equality Act 2010

Organisational obligations under the Equality Act 2010 arise at the point when the Trans person informs the organisation that:

- They intend to undergo, or
- They are undergoing or
- They have undergone gender reassignment.

The **Equality Act 2010** makes it **unlawful to discriminate, harass or victimise a Trans person**. This includes **direct** or **indirect discrimination**.

There is also protection against discrimination where **someone is perceived to be a Trans person** or where they are **associated with a Trans person**.

- ➡ **Direct Discrimination** means treating one person worse than another because they are Trans.
- ➡ **Indirect Discrimination** means putting in place a rule or policy or way of doing things that has a worse impact on someone who is Trans, when this cannot be objectively justified.
- ➡ **Harassment** includes unwanted conduct related to the Trans status of a person which has the purpose or effect of violating their dignity or which creates a hostile, degrading, humiliating or offensive environment for the Trans person.
- ➡ **Victimisation** is treating a Trans person, or someone associated with them, unfavourably because the Trans person has taken (or might be taking) action under the Equality Act or supporting somebody who is doing so.
- ➡ **Perceiving** someone as being Trans means that the person is discriminating, harassing, or victimising a person or someone associated with them, because they think the person is intending to undergo, is undergoing or has undergone gender reassignment.

To obtain protection from discrimination under the **Equality Act 2010**, the Trans person:

- **Does Not** have to have yet fully commenced living permanently in their preferred gender role,
- **Does Not** they have to have undergone any medical treatment,
- **Does Not** do they have to have obtained a Gender Recognition certificate.

The Act ensures that Trans people are afforded Protection from discrimination and harassment **in Employment**, and whilst **accessing Goods, Services, Facilities or Housing**.²

Employers and service providers must ensure that have the responsibility to ensure their **workforce is trained** and has the tools whereby they can ensure that Trans people are treated

- **Fairly,**
- with **Respect**
- and **Dignity** at all times,
- affording them effective **Equality,**
- whilst recognising their right to personal **Autonomy.**

3.1.1. Same Sex Services

SCHEDULE 3, Part 7, Section 28 of the Equality Act allows those organisations, which provide a service to one sex group only, e.g. a Rape Crisis centre, a Men's health clinic or a Women's Refuge, to refuse to employ a Trans person, nor to provide services to a Trans person.

They may only do this, if they can provide evidence that they can **objectively justify** why the service needs to exclude Trans people.

3.1.2. The Public Sector General Equality Duty

The Public Sector General Equality duty contained within the Equality Act 2010 requires all Public Sector Bodies to give due regard to

- **Eliminating unlawful discrimination, harassment and victimisation** including towards transgender people
- **Advancing equality of opportunity** between different groups, including transgender people
- **Fostering good relations** between different groups, including transgender people

3.2. The Gender Recognition Act 2004.

The Gender Recognition Act 2004 enables Trans people to apply for 'gender recognition' and those born in the UK can obtain a new birth certificate. In order to qualify a Trans person has to show that:

- they have been diagnosed as having gender dysphoria, **or**
- they have had gender reassignment surgery, **and**
- they have lived in their acquired gender role for 2 years, **and**
- they intend to do so permanently for the remainder of their life.

² There are exceptions, but they will only apply in the very rare circumstances, for example where the employer is the armed services, or an employer or service provider provides only single sex services.

If successful in their application for gender recognition, the Trans person will be awarded a **Gender Recognition certificate**. If the Trans person was born in the UK, or they have parents who registered their birth when serving with the British Forces Overseas, they will then be provided with a **new birth certificate**.

If their birth is registered elsewhere the UK Government will be unable to provide a new birth certificate but that will not impact their new legal status.

Gender recognition will mean that Trans people must be treated as of their new sex for ALL legal purposes, including health and social care.

The Trans person will also be able to contract marriage or a civil partnership in their new gender identity.

The Gender Recognition certificate affords recognition for **ALL LEGAL as well as SOCIAL purposes**.

3.2.1. Personal Privacy under the Gender Recognition Act 2004 s.22

The Gender Recognition Act 2004, Section 22, Prohibition on disclosure of information gives the Trans person with a Gender Recognition certificate, **greatly enhanced privacy rights**.

S.22 of the Gender Recognition Act imposes new rules which would cause problems for workers seeking advice from their managers and co-providers, and which would also, if not abided by, result in them facing criminal charges. This means that it will no longer be possible to identify a particular employee, customer or client, except with their express permission, as to do so will incur criminal liability.

Section 22 of the Gender Recognition Act makes it a crime, with a fine of up to £5000 on conviction, for any individual:

who has obtained the information in an official capacity to disclose that a person has a gender recognition certificate (GRC) or to do anything that would make such a disclosure.

This includes all people who might receive this information in their official capacity, for example:

- Employers and their staff, including human resources staff,
- Doctors, nurses and other health care workers,
- Social and health care agencies, & people employed by such an agency
- Benefits and Welfare advisors
- Police officers, except in the investigation of a crime
- The courts, except where the change of identity is part of the case, for example a divorce or fraud case,
- Housing staff etc.

Disclosure is a strict liability offence so there is no room for pleading 'reasonableness' as a defence.

3.2.2. Exceptions to S.22 Prohibition on Disclosure Of Information

There are **5 exceptions** to the rule contained in s.22. These exceptions are contained in the **Gender Recognition (Disclosure of Information) Order 2005**

First Exception: s. 3. Disclosure for purpose of obtaining Legal Advice. This allows a person who is seeking legal advice, e.g. an employer, so disclose the information to the lawyer from whom they are seeking legal advice.

Second Exception: s. 4. Disclosure for Religious Purposes. This allows ministers of religion who know a person is transsexual and has a Gender Recognition certificate to disclose that fact to another minister. They may only do this if they believe the other minister might otherwise:

- ➡ confirm an appointment of a transsexual person to a religious post wherein a transsexual person would not be accepted by the religious body or a majority of it's followers, or
- ➡ perform a marriage ceremony for the transsexual person and their partner, when they would conscientiously object to the marriage if they had known that one of the partners was transsexual.

Third Exception: s.5. Disclosure for Medical Purposes. This allows a health professional, to make disclosure to another health professional when the disclosure is made **for medical purposes**.

The Health professional must **reasonably believe the Trans person has given permission** for disclosure, **or** that **the Trans person is unable to give permission** – which would usually mean they were unconscious or too unwell to give permission for disclosure.

A Health professional is :

- **a registered doctor,**
- **a registered nurse,**
- **a registered dentist,**
- **a registered pharmacist,**
- **a registered paramedic ,**
- **registered operating theatre practitioner, or**
- **any person training for any of the above positions**

The remaining exceptions allow for **Credit Reference agencies**, or an **Insolvency Practitioner** to disclose if the information **is contained in an order from a court or tribunal**, for example, an Insolvency order.

3.2.3. Sport and the Gender Recognition Act 2004

s. 19 of the Gender Recognition Act 2004 provides guidance for when Trans people can participate in sport.

In amateur or recreational sport, s.19 states that Trans people may only be excluded from sport if it can be **proven with clear evidence** that their participation will affect the **safety of other participants**, or **fairness of the sport**.

If the Trans person is employed to play sport professionally, the provisions in s. 19 may be overridden by the employment requirements of the Equality Act 2010. It could well be unlawful to rule that the Trans person is unable to play, if that affects their employment contract.

PART 4. CHANGING NAMES & PRONOUNS

Part 4 provides information on how a Trans person can lawfully change their name, and the legal obligations of other organisations to recognise that change, and associated gendered titles and pronouns.

4.1. Changing Names

In the UK, initially when a Trans person 'transitions' to living permanently in their preferred gender role, they are able to change their name and gender on almost all of their public and private records. This includes their driving licence, their passport, their medial and workplace records etc.

The only exceptions are the person's birth certificate, any criminal records, and the gender marker for their HMRC National Insurance and Tax records.

A Trans person can ask an employer or service provider to make these changes simply by notifying them of:

- their intention to transition, and
- provide a Statutory Declaration of Name and Gender Change.

Using **a Statutory declaration**, a Trans person may change their name, including their surname, and their gender and therefore the pronouns preferred for their new gender role.³

This provides all of the evidence required by any organisation for a change of all the Trans person's public and organisational records.

A person's country of birth is irrelevant; any person can use a statutory declaration to change their name and gender for use in the UK.

When presented with the above document, employers and other organisations must immediately change the person's pronouns, and names, and gender markers on ALL records.

This includes ALL medical records. Failure to make these changes would constitute unlawful discrimination.

Many Trans people will also provide a letter from their GP or Consultant explaining the change and that it is intended to be permanent, however since the Equality Act 2010, this is no longer a legal requirement.

On transition to **living permanently** in their preferred gender role, **a statutory declaration** will

³ They can also use a deedpoll, but PFC advises against this as it is often more expensive, and it does not carry the same weight in law as it is not a sworn document.

allow a Trans person to change their name and pronoun on every public record (and many private records) about them, apart from their birth certificate and the gender marker on their HMRC National Insurance and Tax records.⁴

It is not appropriate for employers or service providers, **including GPs and other medical practitioners** to retain details of a person's former name or gender, unless the person is a member of an employer's pension scheme. The Inland Revenue (HMRC) have their own system to keep a tally of Trans people's state pension records, so employers do not have to worry about retaining the person's former details in their records, or about including the person's former name or gender in their tax returns.

On the day of transition, a **Trans employee** obtain all rights as **a member of their preferred gender role** for **ALL workplace matters** including employment rights, pay and pensions.

4.2. Name Changes and the Law

Any person is entitled, in UK Law, to use whatever name(s) they wish and they can change their name(s) at any time.

However, it is unlawful for a person to use a different name in order to defraud or impersonate someone.

The only restriction is that a child under the age of 16 requires parental permission if they wish to formally change their surname.

When a person changes their name, their former name(s) may sometimes be referred to as an 'aka' (also known as). Whilst it is a term we most commonly hear in Police reports, it can be used in other circumstances.

4.2.1. Ways of Changing a Name

There are three ways of changing an adult or a child's name. These are:

- By Custom and Practice i.e. simply using the name until everyone accepts it is your name.
- Making a Statutory Declaration of Name change
- Swearing a Deed Poll (this is not advised)⁵

⁴ If the person is claiming benefits, their records can be given a high security rating, so there is no chance of Mr. Sarah Smith being publicly called for over the Job Centre tannoy.

⁵ the UK Deed Poll Office is NOT a government body. It is a private company. When the company web site implies that a Deed Poll is necessary for a name change, they are not telling the truth. A lower cost, easier to prepare, Statutory Declaration is just as effective and has more legal standing as it is a sworn document.

A person must be over the age of 16 to change their name, before that they need their parent's permission.

4.2.2. What Names Can a Person Have?

Any person can change their name to anything they like as long as they are not changing their name to commit illegal activities i.e fraud.

The only basis for disputing an adult's chosen name is if the name is intended to be used **for fraudulent purposes**.

Trans people need to change their name and gender pronouns, at least 2 years in advance of formally changing their legal gender using the provisions of the Gender Recognition Act.

NB. It is NOT fraudulent for a Trans person to have their new name and gender pronouns recognised in the public arena and workplace to match their public identity, in the years before they qualify for changes to their birth certificates under the Gender Recognition Act 2004.

In fact, it is GOOD PRACTICE and usually required by the clinicians who will eventually say whether the person can proceed to gender reassignment surgery.

4.2.3. How Many Names Can a Person Have?

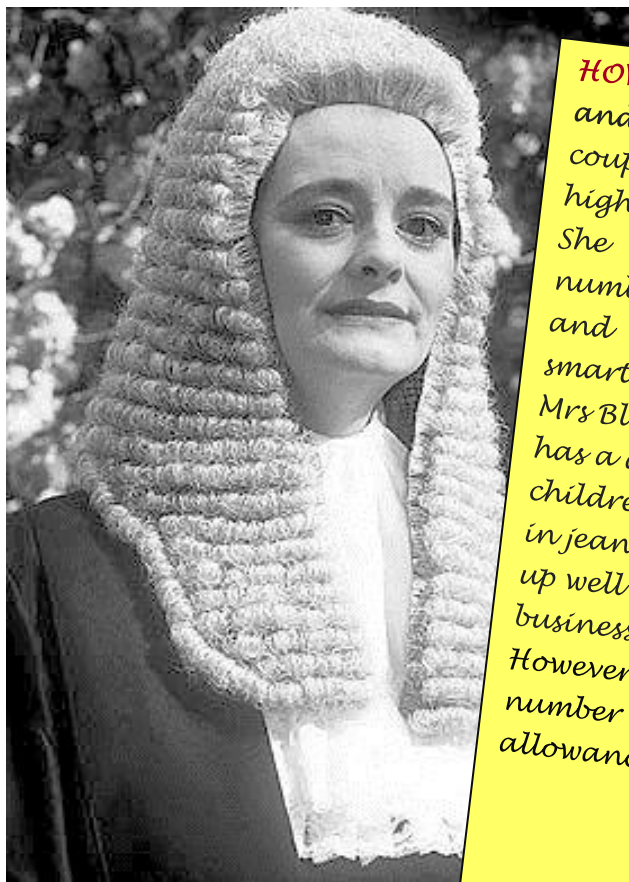
In the UK, it is lawful to have as many names made up in whatever way, as a person wants. They can be combined, they can be separate. They can be a professional name, typical of artists and many professional women.



It is lawful for you to give your child any number of forenames for example, all eleven forenames of the Manchester United Team that won the 1968 European Cup. The only criterion is that the registrar does not consider the names you have chosen as being obscene. You can then choose to have your child be known by all or any one of those names e.g. Dennis, or Tony, or Pat, or George, or Bill, or Nobby Grimshaw. However, when your son grows up to be a Manchester City supporter, at 16 he might choose instead to be known as Tom Smith.

The use of more than one name is common in everyday life. For professional reasons some people may have a business name and a personal name. Entertainers often do this, and increasingly many professional women choose to use their maiden name in work, whilst using their married name at home.

Similarly, for those Trans people who are part time cross dressers (transvestites) or who are commencing the long road to fully transition into their preferred gender role (transgender or transsexual) there may well be a need for flexibility.⁶ Just as John has a male identity including a bank account and credit card, so can Joanne, his alter ego, have a female identity including a bank account and credit card. They could be vital to John taking a on a weekend break to practice and see whether Joanne wants to take the next very big step to commencing gender reassignment treatment.



HOW MANY NAMES? Cherie Booth, Barrister and Cherie Blair, a politician's wife are a couple of such name changers. Ms Booth is a high flying professional who travels the world. She has a passport, a national insurance number, a Tax id, a successful law practice, and mega-earnings. Mostly seen wearing smart business suits and a judge's wig.. Mrs Blair is more a stay at home woman. She has a driving license, a husband, and several children. Mrs Blair can be found more often in jeans and a T shirt, though she can scrub up well when she shows up at her husband's business events in a designer frock. However, both women share the one NI number and have only one personal tax allowance between them.

⁶ Government has accepted that there would be a need for some people to carry more than one ID card, for example Bob Smith the plumber and Mrs Abra Cadabra, his weekend alter ego; the lady magician. The Government have now scrapped the ID scheme, and all related records have been destroyed, but the principles agreed are principles of English law that already existed and have done so for hundreds of years.

TO SUM UP: Name Changes

- ➡ Using one or more names is lawful, and does not require any formal paperwork or process, other than usage.
- ➡ There is no limit to the names a person can use, and where – so long as it is not done for **FRAUDULENT** reasons.

It is not up to any organisation, other than the courts, to decide a person is using a name for fraudulent reasons. That is a job for the police and the courts.

A person who does use more than one name must be consistent, and honest, in their use of their names in whatever spheres of life they use it in, so as not to seem to be acting fraudulently.

- A person can have as many names, with whatever gender pronouns they prefer so long as it is not for fraudulent purposes.
- A person can have 2 or more lawful identities at the same time.
- A person can have as many names in their name as they want.
- A person can hold bank accounts in one or more names.
- A person can change there pronouns and names on proof of common usages, or by statutory declaration, or deed poll.
- All of this is lawful.

4.3. The Law: Changing Titles

4.3.1. Titles

- ➡ **Ordinary Titles**, (Mr, Mrs, Miss, Ms, Master). are not, in any way, controlled by UK law and are simply a matter of custom, practice and good manners.
- ➡ **Only Inherited, Appointed or Merit Titles**; e.g. Lord, Lady, Baroness, Sir, Professor, Dr. etc. are a matter of Law

A Trans person usually chooses to change their ordinary title when they commence transitioning to living permanently in their preferred gender role.

All organisations whether their employer, their local health care practice, their college, all public sector bodies, their social worker, their gym, their hairdresser, their butcher etc. **to respect that change**. Failure to do so will amount to **Direct discrimination under the Equality Act 2010**.

A failure to recognise the change of ordinary titles by a **Public sector organisation** would amount to:

1. **Direct discrimination under the Equality Act 2010.**
2. **A contravention of Article 8 of the European Convention (the Trans person's right to a private life),**
3. **A contravention of the Public Sector General Equality Duty in Equality Act 2010.**

4.3.2. Merit, Appointed and Inherited Titles

If a person has a non-inherited title e.g. a Life Peer in the House of Lords, an academic doctor (a Ph.D.), a medical doctor, or a Judge of the Supreme Court, then if the title has a 'gendered' form it is usually up to them how they wish to be known. They must use the appropriate title for the gender, but only of the same level. For example; Sir Rob Roy would become Dame Rachel Roy, and the life peer Lady Susan Smyth would choose to be known as Lord Stephen Smyth.

If a person has an inherited peerage i.e. an Inherited Lord, Lady, Baronet, Viscount, etc. technically the title does not change when the person transitions to their new gender role, only when they have full legal recognition in their new gender – something which normally will not happen for a further two years.

However, it would be usual and considered polite to use the most gender appropriate title in public. Nonetheless, that will not affect any matter of inheritance including the descent of the title, or the devolution of land or other property, unless the intention not to allow property to pass normally is made **very clearly** in a will. For example, to ensure that his son Johnny gets his cricket bat, David wrote his will to read, "I give my cricket bat to my eldest son." However, David's older daughter, Helen has now changed gender from female to male and become the eldest son: Harry. David should now alter his will to read, "I give my cricket bat to my son Johnny" and "my golf clubs to my son Harry."

When the person with the inherited title legally changes their gender and obtains a Gender Recognition certificate, their title will formally change, but the Gender Recognition Act ensures that upon their death, the title will return to its normal inherited form. For example:

- the Viscount of Arbuthnott is normally referred to as Lord (George) Arbuthnott. Normally the title passes through the male lineage.
- On transition, George becomes Georgina, and she is known as Lady Georgina, but she is still, for legal purposes, the Viscount of Arbuthnott.
- When she receives her Gender recognition certificate, she becomes Lady Georgina, Viscountess of Arbuthnott.
- But upon her death, the title of Viscount of Arbuthnott – which normally passes through the male line - will still pass to the eldest son of George/Georgina. That son may have been born to George's wife when he was married, before he had changed his gender, or may

have been adopted by Georgina since her transition to living permanently in the female gender role.

TITLES: To Sum Up

On TRANSITION:

Mr Tom Jones will become **Miss or Ms or Mrs Tracy Jones**

Miss Tina Turner will become **Mr Ned Turner**

Dr. Richard Kildare will be **Dr. Rachel Kildare**

The surgeon who is known as **Miss Sally Turner** will become **Mr Stephen Turner**.

Lord Larry Fauntleroy, inheritor of the title, may be called **Lady Lorraine Fauntleroy**, but **for legal purposes** she is still technically Lord Lorraine Fauntleroy. However, on legal recognition of her change of gender, Lord Fauntleroy will now be Lady Lorraine Fauntleroy for all purposes including legal purposes.

The Gender Recognition Act 2004 makes it quite clear that once a person has a Gender Recognition certificate as the change of gender is for ALL purposes, including legal purposes. As such there will be a change to the title of the person who obtains a Gender Recognition Certificate.

4.4. Pronouns: S/He – Him/Her – His/Her – They

The pronouns – **she or he, him or her, his or her**, exist entirely through customary use and practice. There is no legal requirement to call anyone by any particular pronoun, but not call someone by an appropriate pronoun can be discrimination, manifestly showing your prejudice, or be just plain rude and bad behaviour.

‘They’ and ‘their’ are very useful terms if you are not certain which gender someone is presenting in. However, if a person has made their gender identity clear – either by their personal presentation or by telling you their name – then it can be very affirming to the person if you use the appropriate gender pronoun.

Per –having never felt comfortable with either gender, lives between genders - says:

"I can be he today, she tomorrow, and 'Per' the next day. I invented 'per' – a sort of self-styled pronoun which acknowledges people who do not feel comfortable in either gender. It allows me to exist as I am and it allows recognition by others.

"It doesn't really matter to you what you call me. But it does matter to me"

PART 5. THE TRANSITION PROCESS

TRANSITION commences when a Transperson starts the process of living permanently in the preferred gender role, prior to any Gender reassignment treatment or surgery. It often commences on the day the Trans person first goes to work or College in their preferred gender role.

A period of one to two years of transition is normally required before a psychiatrist will agree that the Trans person is ready to undergo Gender reassignment surgery.

During the period of 'medical' transition required by clinicians, the Trans person will be required to live permanently in their preferred gender role, and to be in full time work, or be a full time student, or be a full time volunteer – or any combination of these if part time, before they will be considered for surgery.

5.1. For Employers: Preparing for an Employee's Transition

A person will usually notify organisations of their name change and their intention to change their name at a point when they are ready to **TRANSITION**.

Trans people usual change their name by swearing a Statutory Declaration of Name Change or a Deed poll of name change. But this is NOT a requirement. Name changes can be achieved simply through custom usage and practice (see below).

Trans people are advised to speak to their employer some time before their change of gender. Numerous matters will benefit from discussion beforehand. It can make a significant difference to whether a person's change of gender within their employment is successful, by jointly preparing the process in advance.

This should start with discussing the employee's proposed timetable of preparations for the day when the employee will come to work in their new gender role. The day and date of presenting in their new gender role is of the employee's choice, but PFC recommends it be a joint decision, to ensure that there is agreement on the plans. This can make all the difference to whether other employees are prepared and know what is required of them by the law and the employer. Transition in the workplace can be very frightening, but done well it can be a joyful event.

5.2. Transition: Specific Plans for Transition

If you are the employer of the Trans person, your plans should include:

- ➡ Detailed preparations for the day when the employee comes to work in their new gender role,
- ➡ When and how to tell other employees of the employee's change of gender.

- ➔ Whether there should be some training of senior management in order that they can ensure all staff are aware of their legal obligations and the transitioning employee's rights,
- ➔ What will happen on the day the employee attends work in their new gender role,
- ➔ Whether the employee wishes to be redeployed when they change their gender,
- ➔ Change of uniform or other aspects of a company's dress codes

Under the provisions of the Equality Act 2010, organisations, including employers or service providers **must** respect a person's change of person's name.

You would change the name, title or pronouns on your paperwork for a person who marries or gets divorced. As such, then you must do the same for a person who is commencing the process of gender reassignment.

Failure to respect the change of name or pronoun will constitute **direct discrimination** under s. 7 of the Equality Act 2010

A Gender Recognition Certificate (proof of a change of gender for all lawful purposes) is **NEVER** required for a lawful change of names and gender pronouns for Trans people. All that is required is a statutory declaration of name and gender change.

The Trans person may also provide a doctor's letter confirming that they are undergoing treatment for gender reassignment. This used to be a compulsory requirement, and public bodies such as HMRC, or the DVLA required a doctor's letter before they would change a Trans person's name and gender on their records. **However, the Equality Act 2010** has made it clear that a person's transition **is a social process** and not necessarily a medical process.

Consequently, requesting medical evidence, such as a doctor's letter could now constitute discrimination under the Equality Act.



PART 6. CHANGING PERSONAL RECORDS

For transsexual and transgender people who commence living permanently in their preferred gender role the changing of one's documentation is a crucial part of the transition process.

6.1. What is Going Wrong?

Trans people frequently report that their employers, banks, medical practice, and other institutions fail to promptly change the details on people's records. They report how many organisational staff seem to 'make it up on the spot'. Invariably what they have made up is wrong.

The **Gender Recognition Act 2004** seems to have confused some organisations, including universities, the police and health authorities, who now falsely claim that no change of name, gender or pronouns can be made without a gender recognition certificate.

Refusing to change personal details such as names on Examination Certificates without sight of a Gender Recognition certificate **would undermine the purpose of the Gender Recognition Act 2004 and the medical process of gender transition.** A person who is changing gender must permanently live in their new gender role for all purposes, **for at least 2 years** before they can apply for a Gender Recognition certificate. **Similarly they must permanently live and work, or do the equivalent of full time work, for between at least one and two years before they will receive a referral for any gender reassignment surgeries.**

Imagine, for a moment, having to comply with either of those requirements if you could not formally change your name and gender pronouns on your day to day records. It would make life almost impossible, which is why a lawful system of custom and practice has been developed over the last 30 years, to allow Trans people to change all of their records, other than their birth certificate, in advance of gender recognition in law.

For over thirty years a whole range of institutions, including all of the above, routinely changed Trans people's details on production of a formal change of name (and as was then required, a doctor's note). This good, lawful custom and practice continues to exist. All organisations need to do is reinstate the simple and lawful process which they had used previously. This is crucial and necessary for Trans people to continue their gender reassignment treatment in peace, and with privacy.

Organisations and their employees who refuse the simple and easily met request of referring to a person in their preferred name, and in pronouns that reflect the way the person presents themselves, through their clothing, hair, jewellery, and other indicators of gender, **are acting unlawfully.**

Examples of where things go wrong:

Some banks refuse to issue credit cards in two names to those Trans people, who are on the way to gender reassignment, but who are not yet living permanently in their new gender role. (Banks already provide other people with the same credit card twice in a second name; actors, writers, lawyers and the many other people who use a different name for professional purposes as well as for spouses and partners).

Health providers argue with Trans patients as to whether they will call the person Mr or Miss, which is bound to put them off seeking health care, when the wrong pronoun is called out in the A&E waiting room.

Benefit agency staff who insist on calling out “Mr Robert Smith, now known as Jane Smith), never mind sending all letters to the wrong name in what they know is a multi-occupancy house.

Universities and Colleges which argue that they cannot issue new exam or degree certificates in a person’s new name, for fear of fraud.

Police officers insist on proof of name and will not accept the one given as legal if they think the person is trans, without seeing a Gender Recognition certificate.

Some of these practices are in themselves unlawful, according to the provisions of **European law**, and the **Equality Act 2010**.

The Equality Act 2010 requires that the end result is equality, and therefore the process should be adapted to each person and their differences, to enable that equality. Organisational staff who treat Trans people which leads to results that are different, clearly contravene the obligations under the Act to employ or provide services on an **fair** way which results in **equality**.

6.1.1. The Registrar for Births and Deaths

Most Trans people change their pronouns and name using a statutory declaration. They can lawfully do this without any reference to the Register for Births and Deaths.

The Registrar of births and deaths will only become involved in a legal change of name when:

- When a child’s birth is registered
- When an adoption is registered
- A person uses a Deed Poll to change their name or title

However, an adult does not have to refer to the Registrar when changing a name by statutory declaration.⁷

⁷ The Registrar has to be informed of a name change only when using a Deed Poll. PFC does NOT recommend Trans people use a deed poll. It is expensive, and more complex, does not change the birth certificate. The much cheaper and easier solution, a Statutory Declaration, is just as good when applying for a Gender Recognition certificate including the change the birth certificate. But that cannot happen for at least 2 years.

When registering a child's birth or adoption, the Registrar will not accept names they consider to be contrary to public decency. Mercifully, therefore, no one can register his or her child's name as 'Hot Sexy Knickers'.

If using the Deed Poll process as an adult to register a new name, the Registrar will allow a person to choose any name they wish for any lawful purpose, except in very exceptional cases. The Registrar will not accept names that:

- do not include at least one first name and one surname. (no 'Jones Jones')
- Are impossible to pronounce (no 'Xnmwlddodtn Ttxoxumal')
- Contain symbols or numbers (no 'Johnny +or- 1234')
- Contain punctuation other than hyphens and apostrophes (no 'Tom# Jones**')
- May lead people to believe you have a title (No Lord Archer & no 'HRH Elizabeth Windsor')
- Contain offensive and or racist content (no 'Joanne Sexy Boobs')

A person holding a PhD or qualified as a doctor or dentist, who is using a **Deed poll** to change their name, can also formally change their title in their name from Mr to Dr, if they can provide evidence of the qualifications they are claiming.

6.1.2. Best Practice: Changing Records (for Organisations)

The process of instigating a name and pronoun change at the point of transition is relatively easy, and lawful.



The process detailed above can be used to change all documents and records (other than the birth record). Birth records may only be changed later using the Gender Recognition process.

Typical examples where names and gender pronouns **MUST** be changed if requested by a Trans person include:

BANKS: Bank records, letters, credit cards, account details, terms of address.

EMPLOYERS: All records other than company pension records, which at present can only be changed later after a Gender Recognition certificate has been obtained. When pension ages have been completely equalised, those records can also be changed at the point of transition.

HEALTH SERVICES: Medical card, medical records, terms of address, placement on wards appropriate to new gender.

GOVERNMENT AGENCIES: Tax and Social security records, national insurance contributions (other than secure gender marker), passports, driving licences [Criminal records cannot be changed, unless they are spent], incarceration placement in new gender facilities

SCHOOLS, COLLEGES AND UNIVERSITIES: certificates of achievement, registration records, terms of address, school uniform to that of the new gender, residential placements to that of new gender

CONTRACTUAL OBLIGATIONS: terms of address

6.1.3. Costs for Changing Records

If organisations charge for the simple process of changing a person's name, title or gender they could well find they were discriminating against a particular group of people, contrary to the Equality Act 2010. If a Public Sector employer, they would be contravening a Trans person's legal and human rights. To charge for this service they could be required to prove that it takes a significant amount of work to change the records.

However, organisations can charge a **reasonable amount**, say for changing examination certificates – where the certificate has to be reissued, **and** they would charge other people who needed new or altered certificates.

Similarly, organisations cannot charge extra e.g. more for their scrabble club membership just because members of the Trans person's gender tend to play more scrabble, This would be discrimination contrary to the Equality Act 2010.

6.2. Changes: What the Law Requires to be Done.

Trans people are advised to make a **Statutory Declaration of Their Name And Gender Change**.

The statutory declaration of name and gender change is then submitted to the institution wherein the change of records is to be made with proof of their former identity, with whatever fee is required to make these changes. Any fees should be in line with those normally charged for replacement documents.

Where the person is transsexual and is undergoing gender reassignment, they are then advised to obtain a letter from their doctor in which the doctor confirms their gender role change and states that the change is intended to be permanent, but this is no longer a legal requirement.

The Organization: On receipt of these documents, the institution concerned changes the Trans persons records to record their new name and gender pronouns, and where relevant, the gender role marker – e.g. the 'm' or 'f' on documents.

The institution informs the Trans person of the changes, and reissues relevant documents as required e.g. passport, driving licence, credit cards, bank books, certificates of qualifications, medical records.

Links may be maintained to former records in certain circumstances such as a company [pension scheme, but only if these are highlighted as secure and in need of review by senior staff before opening.

After two years, the Trans person may choose to apply for a Gender Recognition Certificate.

This is NOT compulsory. If successful they will be recognised as a member of their new gender (sex) **for all legal purposes**, they may well contact you and ask that their former name and gender is purged from any old records on which it has been retained. In almost all cases, this request is **lawful** and **must be complied with** to ensure the future privacy of their past identity.

TO SUM UP: Changing Personal Records

- When a Trans person transitions to living permanently in their new gender role, i.e. 24 hours a day, including going to work or college as a member of the new gender, organisations including employers have **no lawful reason** to refuse to change the Trans person's personal records, including their pronouns and name.
- When a Trans person initially changes their name, they are only changing their legal gender(sex) **for workplace purposes**.
- A Trans person only changes their legal gender, when **after at least two years in their preferred gender role** they obtain a Gender Recognition certificate.

PART 7. GENDER RECOGNITION

A Trans person can only change their legal gender (sex) status to that of people of the opposite birth sex, after they have been living permanently in their preferred gender role **for at least 2 years**. Only then can they apply for a change of legal gender (sex).

7.1. Obtaining Recognition of a Preferred Gender Identity

Once a person has been living in their new gender identity for two years or longer, they are then eligible to apply for a Gender Recognition Certificate; this will allow them to be legally recognised in their new gender identity. Further details can be obtained from the Gender Recognition Panel website: www.grp.gov.uk.

There are **three requirements** to being eligible to apply for Gender Recognition;

1. **Having lived in the new gender roll for at least two years**
2. **Be unmarried or not in a civil partnership**
3. **And have been diagnosed as having or had gender dysphoria**

Q. Does the Trans person have to have had any surgery or be taking hormones to apply for their GRC?

A. No, a person does not have to be taking any medication or have had any surgery to apply. All they ask is that they meet the requirements set down to apply for a GRC.

Q. When does the two year period start from?

A. The two year period starts counting from the day a person commences living permanently in their new gender roll, but they must not have switched between roles during that time.

7.2. The Meaning of Gender Recognition

If a Trans person meets the required standards for the Gender Recognition Panel (see www.grp.gov.uk), they will be awarded **a Gender Recognition certificate**.

The Gender Recognition certificate alters their gender (sex) status for ALL legal purposes.

If born in the UK or with British Forces overseas, a new birth certificate recognising the Trans person's new gender will then be issued to them.

For example, a life insurer will not regard a Trans person as a member of their preferred gender for insurance purposes, after just a name change. They should however change the name and

pronoun on all documents in the public domain, as a high level of privacy rights concerning their medical history is afforded to Trans people.

7.3. The Gender Recognition Certificate

If you are not a Trans person, you will usually never get to see a Gender Recognition certificate. The purpose of legal recognition for all purposes of a gender change is to afford Trans people privacy in relation to their medical and social history. If all and sundry, including banks, hospitals, local authorities etc., could demand to see the Gender Recognition Certificate of a Trans person, the purpose of the Gender Recognition Act 2004, which was implemented to comply with decisions made in the European Court of Human Rights, would be completely undermined.

Demanding sight of a Gender Recognition Certificate from a Trans person is, in itself, unlawful.

Once a Trans person has a Gender Recognition Certificate they do not have to disclose their past to anyone, except in very special circumstances.

The only time a person will see a Gender Recognition certificate is if:

- **they are the person undergoing gender reassignment, or**
- **they are an employer, employing a Trans worker who was born outside of the UK.**

In these circumstances, a worker might need to produce a Gender Recognition certificate as evidence of their identity. This will be because they have not had a new birth certificate issued by their home country, and their passport will not have been altered by their home country.

The UK is still amongst a very exceptional group of countries in affording gender recognition to Trans people. Some parts of the world, such as rural Tibet still have no birth registration system, and in rural India there was not a formal birth registration system until very recently. A Trans person from these countries may need to keep their Gender Recognition certificate to prove their identity.

Whereas an employer or business (where relevant) must now ask everyone they employ for the means to identify their right to work in the UK, such as a passport, it is not acceptable to demand sight of a birth certificate for that purpose. A birth certificate will not prove anything – for a small fee, anyone can obtain any other person's birth certificate over the internet. However, if a Trans employee from overseas only has a passport in their former identity they may have to show their Gender Recognition certificate to prove the link between who they are and the person identified in the passport.

If shown a Gender Recognition certificate, the employer must NOT record this. They should simply record that they have seen evidence that the person has the right to work in the UK.

The main purpose of the Gender Recognition certificate beyond showing that the person's gender has been recognised, is to be available for identification purposes if the person is named by their old name and gender in a will, and needs to prove who they are for inheritance.

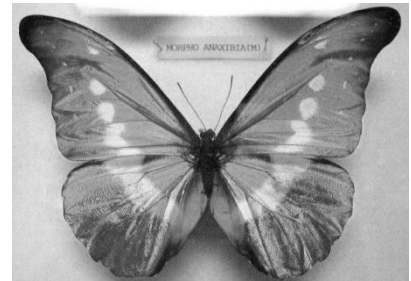
Most Trans people will not need to keep their Gender Recognition certificate once they have it, as they will be issued with a new birth certificate which they can use to prove their identity.

The 'Changing Names and Pronouns' (see part 4) section also explains how Trans people can change their various public records.

7.4. Insurance

Under European Law, and the Equality Act 2010, an insurer is not able to put any sort of premium on top of what would be the normal insurance for another person, for a Trans person, unless the insurer has actual, actuarial proof of increased risk, related to the relevant gender reassignment treatment.

Once a Trans person does change their legal gender status, if there is actuarial evidence that men or women are at greater risk, the insurer could then raise or lower the premium according to the direction of gender change.



For further information and advice contact Press for Change

email: office@pfc.org.uk

or write to Press for Change, BM Network, London WC1N 3 XX

PART 8. BEST PRACTICE: THE 'JLP' MODEL

A floor manager at the John Lewis Partnership store transitioned from female to male very successfully 20+ years ago. After he informed his managers that he wished to come to work as Jerry rather than 'Judith', 'Judith' was given a fortnight's leave. In the meantime, the staff at the store received the following letter from the JLP Managing director:

"after extensive consultation with doctors and other specialists, one of our partners, Judith XXXX, who works on XXXXXXXX, has made the decision to undergo gender reassignment and to become the man, Jerry, that he always knew himself to be. Jerry is currently on holiday, and he will be returning to work on Monday XXrd XXX in his new gender role.

I am sure you will all join me in congratulating Jerry, and wishing him well in his future life. On his return to work, I will be at the store to welcome Jerry and I trust you will all join me in welcoming him on his return to work.

This is still a very brave decision, as I am sure you all realise. There are people who do not understand why a person may undertake this very difficult but necessary step in their lives, and this can lead to misunderstandings and prejudice. We ask you to remember Jerry's need for privacy and his personal safety if you talk to others, outside of the company, about his transition. On Monday, one of our partners from Human Resources, XXXXXXXX, who has become knowledgeable about gender reassignment, will make herself available in the staff dining room during your normal breaks. Please do not hesitate to approach her if you have any questions or concerns. We will also be putting a link on the staff website to the transsexual support group Press For Change, who provide a very good question and answer section on their web site.

JLP has a policy of supporting all of our partners to maximise their opportunities in life, and to ensure all are treated equality with respect and dignity. Jerry has been a major contributor to staff welfare and sales in our store at Hemel Hempstead for almost fifteen years now, and we hope that you will help us ensure he continues as a partner with JLP for as long as he wishes in the future."

The letter emphasises that support for Jerry comes from the very top of the company, and indicates that it expects similar support from all other employees. It also ensures staff know – in advance – that the company does have an equality policy and how they are expected to behave. It is also realistic in recognising that employee's will probably talk to others outside of the store, but reminds them to be protective of Jerry's rights (this also ensures the company is protected from any employee liability arising out of inappropriate behaviour from the staff). The letter ensures staff can access information either formally or informally through the website of a good quality support organisation.

Note that Jerry is not required to know all about transsexualism – most people are too busy fire-fighting their own crisis especially family issues during their transition. Though he will clearly know quite a lot about transsexualism, it will from only his own perspective, and it is unlikely he

has all of the answers to questions from others. Finally, the letter is both supportive and welcoming to Jerry, and so sets the standards by which all staff within the store are meant to behave.

[Jerry's transition with JLP went extremely well and he stayed with the company for several more years before leaving to open his own, now thriving, art shop.]

The End

PART 9. NATIONAL SUPPORT ORGANISATIONS

a. PRESS FOR CHANGE: BM Network London WC1N 3XX

Helpline: 0161 432 1915 (Mon-Thurs 10am – 5pm)

‘The UK’s Leading Experts on Transgender Law’.

Campaign for equal civil rights for Trans people. Provides free legal help and advice for individuals, information and training for professionals, speakers for groups.

Produces a newsletter and publications.

<http://www.pfc.org.uk> and www.transequality.co.uk

b. GENDER TRUST: PO Box 3192 Brighton BN1 3WR.

tel: 01273 424024 (office hours), Helpline: 07000 790347

Offers advice and support for ‘male to female’ Trans women. Also partners, families, carers and allied professionals. Has a membership society and produces a magazine: "Gems".

<http://www.gendertrust.org.uk>

c. FTM NETWORK: BM Network London WC1N 3XX.

Helpline: 07811 814 302

Offers advice and support to "female-to-male" Trans men, and to families and professionals. Also a "buddying" scheme, camping and hiking, itehr sports. Newsletter: "Boys Own" and an annual national meeting.

<http://www.ftm.org.uk>

d. BEAUMONT SOCIETY: 27 Old Gloucester St, London WC1N 3XX.

Helpline: 01582 412220.

Provides advice and support for cross dresser, but also has some Trans women as members. Runs local groups and produces a newsletter and publications.

<http://www.beaumontsociety.org.uk>

e. MERMAIDS: BM Mermaids London WC1N 3XX.

Helpline: 0208 1234819 (12 noon - 9pm when staffed).

Support and information for children and teenagers who are trying to cope with gender identity issues and for their families and carers. Please send SAE for further information.

<http://www.mermaids.org.uk>

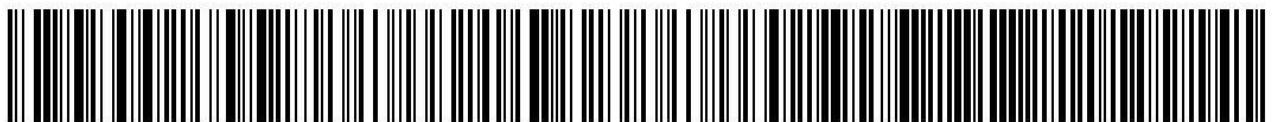
f. DEPEND: BM Depend, London WC1N 3XX

An organization offering free, confidential and non-judgmental advice, information and support to all family members, partners, spouses and friends of transsexual people.

<http://www.depend.org.uk>



www.waspbarcode.com



Press for Change Name changes 2011 UKP 12.50.