

## **People Policies and Procedures**

# **TRANSSEXUALISM AND GENDER REASSIGNMENT IN THE WORKPLACE**

**Our goal is to have engaged and helpful colleagues who will deliver ever improving customer service.**



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## Glossary of Terms

### 1 **Transsexual**

A transsexual person is someone who experiences a deep and long-lasting discomfort with their anatomical sex and wishes to change their physical characteristics to the opposite of those associated with their anatomical sex, and to live permanently in that gender role.

### 2 **Sex**

Sex refers to someone's physical characteristics - in other words, which type of anatomy they possess. Except in very rare cases of hermaphroditism (see 14, below) anatomical sex is well defined and easy to interpret.

### 3 **Gender**

Gender is rather more subtle, and refers to the person's own self-identity as a male, female or something else. The overwhelming majority of the population have a gender that accords with their anatomical sex, which is why few people understand that the two are different. Gender is less clearly defined than anatomical sex, and does not necessarily represent a simple two-way choice: some people have a gender identity that is neither clearly female nor clearly male.

### 4 **Gender Dysphoria**

This is an umbrella term covering a feeling of unhappiness and incongruity concerning one's physical sex and / or gender role. In a transsexual person this will be severe.

### 5 **Gender Identity**

The gender that the person wishes to live and be known as.

### 6 **Gender Identity Disorder (GID)**

Formerly called transsexualism, this is the medical diagnosis by which most transsexual people in the UK currently receive hormone therapy and surgery.

### 7 **Gender Role**

The social role, as defined by gender, which the person lives and is known as. Adopting the new gender role, with hormonal and surgical treatment, brings the individual into conformity with their gender identity.

### 8 **Gender Reassignment**

The medical treatments including hormone therapies and surgical procedures to change a person's appearance to nearer that of the opposite birth sex group. Also known as gender confirmation or gender realignment treatment.

Will include all or some of the following:

- **Social Reassignment**

The most pressing need for a transsexual person is the need to alter their gender role and to live in accordance with their gender identity. This means, for a male-to-female (MTF) transsexual person, living completely as a woman. This is usually, but not always, done as a step in a journey leading to hormonal and surgical gender reassignment but some people choose to stop here.

- **Hormonal Reassignment**

Most transsexual people undertake hormone treatment to bring their body shape and appearance into closer accord with their gender identity. Hormone treatment may start before or after social reassignment: a few transsexual people can 'pass' in their new social role without hormone treatment, many may require some months of treatment before

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undertaking social reassignment. In Britain, hormones can only be prescribed by a consultant psychiatrist as part of a gender reassignment programme. The initial hormone treatment is largely reversible if stopped early. This is often used as a safety check to prevent people who are confused and not truly transsexual, from taking a disastrous course of action.

Female-to-male hormone treatment causes the voice to break and the individual to become muscular and develop male hair patterns.

Male-to-female hormone treatment causes development of breasts, as well as redistribution of body fat and general feminisation of the figure, hair and skin; electrolysis will be required to remove facial hair. Neither hormone treatment nor surgery will 'unbreak' a male voice so speech therapy is often required.

- **Surgical Reassignment**

Surgical procedures involve for male-to-female reassignment, removal of the male genitals and the construction of a set of female genitals (excluding uterus and ovaries) using material from the male genitals. The operation is a major surgical procedure (requiring about ten days in hospital and four hours or more under anaesthetic). Female to male surgery consists of a mastectomy operation and male genital construction.

## 9 Gender Recognition

A process whereby a transsexual person's preferred gender is recognised in law (through the Gender Recognition Act 2004), or the achievement of the process.

## 10 Gender Recognition Certificate (GRC)

A certificate which is provided to those who have been successful in their application for gender recognition.

## 11 Pre-op / post-op / non-op transsexual

Pre-operative and post-operative; having had or not had sex-confirmation surgeries. 'Pre-operative' implies that the person desires gender reassignment surgery; if this is not the case, 'non-op' is the correct term.

## 12 Transition

The process of change from one gender identity to another. This can be instant, i.e. changing the clothes of a man to a woman, or it can take months and involve hormone treatment and sometimes surgical reassignment before the individual wishes to adopt the new gender role. The point at which transition and RLT (see below) in the workplace occurs should be determined by both the company and the individual together. This would however, largely depend on third party medical advice to ensure that this is absolutely the right choice for the individual.

## 13 Real Life Test (RLT)

This involves a period of at least 12 months during which the person must demonstrate living (and working) successfully in the new role before surgery is undertaken. The start of the real life test is very significant for the transsexual person and is the point at which most employment changes take place e.g. name, use of facilities.

## 14 Hermaphrodites

Hermaphroditism is a very rare condition in which a person is born with genitals that are neither clearly male nor clearly female. The incidence of true hermaphroditism is reportedly somewhere around the one-in-a-million mark, although milder physical inter-sex conditions are very much more common.

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## **15 Transvestism**

Transvestites, commonly known as cross-dressers, feel a need to dress as the opposite sex from time to time, but have no wish to change sex. However, it's not uncommon for transsexual people to go through a phase of seeing themselves as transvestites before they come to fully accept their true condition. Conversely, a few transvestites delude themselves into thinking that they are transsexual. Rigorous psychiatric screening is used before allowing gender reassignment treatment to minimise the possibility of such people embarking on a course of action that they may come to regret.

## **16 Homosexuality and Bisexuality**

Simply attracted to persons of their own anatomical sex, or to both sexes in the case of bisexuals. Homosexuality and bisexuality are very common and, at minimum, homosexuals and bisexuals represent a large minority. This has no connection at all with transsexualism - gay men and women are comfortable with their anatomical sex, and their gender identity is in accordance with it.

## **17 Transsexual Identity**

A trans female (MTF) refers to male to female identities and trans male (FTM) refers to female to male identities.

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## 1. INTRODUCTION

Manchester Airports Group is committed to ensuring that transsexual people are treated with respect and supported in the workplace.

This guide is intended to assist individuals, their managers and other colleagues put this commitment into practice and to help them deal with any practical issues which may arise. As awareness of the topic is generally low, it aims to provide an understanding of what transsexualism and gender reassignment are and some of the issues that need to be considered in order to ensure a smooth process for those undergoing reassignment and their colleagues.

## 2. SCOPE AND DEFINITION

This guide applies to all employees of Manchester Airports Group.

Gender dysphoria is an umbrella term covering a feeling of unhappiness and incongruity concerning one's physical sex and / or gender role. Transsexualism is the most pronounced form of gender dysphoria. It stems from a physiological cause; it is not a mental illness, a perversion or a 'lifestyle choice'. Gender identity is determined before birth, is unchangeable thereafter and in this case, a person identifies himself or herself as the opposite sex to the one s/he was registered at birth. It's common for some transsexual people to arrive at their cross-gender identification later in life, often after being fully functional in the natal sex role for some time, perhaps having even married and raised families. It affects an estimated 5,000 people in the UK.

Gender reassignment does not change the inner person, and there is no need for it to adversely affect workplace relationships; indeed following gender reassignment, a person may be happier and therefore even more motivated and productive at work.

## 3. THE MEDICAL PROCESS

Behavioural therapy to try to change a transsexual person's internal self-image have historically failed and are now regarded as cruel and against the individual's best interests. The only known help for those who are diagnosed as transsexual is to change their body through hormone therapy and possibly surgery so that it cosmetically represents the sex they identify as.

To be accepted for gender reassignment surgery, individuals have to be referred for stringent counselling to ensure that their condition truly is gender dysphoria and would therefore benefit from surgery. Transsexual people generally have to live in their desired gender role for 12 to 18 months (Real Life Test) before being recommended for surgery, although some people can't or don't wish to have surgery and will continue to live as pre-operative transsexual people.

The process of transition and gender reassignment (medical treatment to alter the body) can be stressful for the person involved and if the treatment is unobtainable it's not uncommon for serious psychological problems to occur. Sympathetic treatment by employers and colleagues contribute greatly to a successful outcome.

## 4. CURRENT LEGAL POSITION

The Sex Discrimination (Gender Reassignment) Regulations 1999 extended the provisions of the Sex Discrimination Act 1975 to outlaw discrimination against transsexual people on the grounds that they intend to undergo, are undergoing, or have undergone gender reassignment.

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The Gender Recognition Act 2004 allows transsexual people who have undergone gender reassignment to apply for a Gender Recognition Certificate (GRC). When a full gender recognition certificate has been issued, the person is considered in the eyes of the law to be of the acquired gender. There's no obligation on an individual to apply for a gender recognition certificate and there may be good personal reasons, such as an existing marriage, why someone doesn't do so. There are special laws protecting the privacy of someone who has a gender recognition certificate: a person may commit a criminal offence if s/he discloses information about the gender history of someone with a gender recognition certificate without that person's consent.

## **4.1 Genuine Occupational Qualification (GOQ)**

There are occasional requirements to recruit for a specific single sex post e.g. security staff conducting body searches. In such circumstances, the employer may discriminate against a transsexual person, for example by excluding from recruitment, by redeploying or by dismissal. The employer must be able to show that, firstly, an applicable GOQ exists, and secondly, that any treatment of the individual is reasonable in all the circumstances of the case.

The above exception does not apply in the case of a transsexual who has a Gender Recognition Certificate; in this case the individual is treated as being of the acquired gender for all purposes.

## **4.2 Documentation**

Individuals who have undergone gender reassignment are able to apply, under the Gender Recognition Act 2004, for a gender recognition certificate. Individuals with a gender recognition certificate are, for all purposes including pension and insurance, treated as a person of the acquired gender.

Individuals who have undergone gender reassignment but do not have a gender recognition certificate may change their personal details and live as a member of the opposite sex to that recorded at birth. It's possible to change one's name by deed poll and to obtain official documents in the new identity such as passport, driving licence, medical records and National Insurance Number. S/he may be required to disclose his/her gender history for pension and / or insurance purposes and this may be supplied to the pension fund / insurance company with the colleague's prior consent.

HR Shared Services will create a new personal file containing the details relevant to the new gender. Any records that the Company needs to keep that relate to a colleague's previous gender will be kept confidential with only specified staff having access to them, e.g. Occupational Health practitioners or those who must make submissions to the pension fund.

## **4.3 Tax and NI**

Where a gender recognition certificate has been obtained, the person will be treated as the acquired gender from the date of the certificate and this may affect tax and NI contributions.

Where a transsexual does not have a GRC, the Inland Revenue does not recognise the new gender. Therefore a transsexual woman will be treated as male (and vice versa) for tax and NI purposes.

The effect of this may be a difference in treatment in respect of pensions and benefits between those who have a GRC and those who don't. Further information may be obtained directly from HM Revenue & Customs.

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## 5. THE TRANSITION TO THE NEW GENDER

### 5.1 *AGREEING THE PROCESS*

The most important factor in the successful management of a colleague's transition from one sex to the other is to consult with them as to how they would prefer to handle it and to follow a process agreed with them (where possible). Issues which should be considered include:

- whether the colleague wishes to stay in his/her current post or be redeployed;
- the expected timescale of the medical and surgical procedures and the time off required for medical treatment and recuperation;
- the expected point or phase of change of name, personal details and social gender;
- whether the colleague wishes to inform his/her colleagues and clients themselves, or would prefer this to be done for them;
- whether training or briefing of colleagues or clients will be necessary, and at what point and by whom this will be carried out;
- what amendments will be required to records and systems;
- whether a transsexual colleague is adequately covered by existing policy on issues such as confidentiality, harassment and insurance and if not how these will be amended;
- agreeing a procedure for adhering to any dress code;
- agreeing the point at which the colleague will begin using single sex facilities in their new gender (e.g. toilets);
- how the individual (and the Company) should handle any harassment or hostile reactions.

### 5.2 *COMMUNICATION AND CONFIDENTIALITY*

The colleague and his/her line manager should discuss when the colleague intends to start presenting in the new gender at work and how and when the people who need to know are to be informed. They need to agree who is to do this. It's good practice for the manager to take responsibility for this, unless the individual would prefer to do so. Briefings should be completed before the colleague begins to attend work in the new gender.

If the colleague is to inform colleagues and clients (if appropriate), the manager needs to know when this is to be done and what's to be said, so that s/he can provide appropriate support. The manager can inform others only with the colleague's agreement. If the manager is to do this, the colleague and his manager should agree what's to be said, when and to whom. The manager will need to provide general information about gender reassignment and specific information about the colleague to allow others to understand his or her needs. If the colleague is taking a period of leave before returning to work in the new gender, this may be an appropriate time for the briefing to take place.

Work colleagues should be asked to refer to the transsexual person by his or her new name and to use the appropriate pronouns. The manager should try to address quickly any concerns that other colleagues may have.

The manager should remind colleagues of the Company's dignity at work procedure. Disciplinary action will be taken against colleagues who bully or harass other colleagues. If there are colleagues who are still unsympathetic after briefings and any training have been given, the manager should discuss with the individual how s/he would like the situation to be managed.

The Company's position in respect of support to the individual should be made clear.

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## **5.3 MEDICAL TREATMENT / LEAVE OF ABSENCE**

For strictly medical treatments which are essential reassignment interventions for the purpose of psychiatric evaluation or hormonal or surgical treatment, the employee will be granted sickness absence and be paid sickness benefit in the same way as for any other medical condition. Surgery may result in between one and twelve weeks' absence depending on the surgery undertaken.

The individual may also have to spend a very considerable amount of time undergoing various other treatments and processes (e.g. electrolysis, speech therapy, support group participation, counselling), and while the Company can't realistically be expected to grant paid leave for this, a sympathetic approach such as allowing some degree of flexible-hours working, or unpaid leave will be beneficial if it could be accommodated.

There is always a small possibility that complications arising as a result of medical treatment for transsexualism could result in a prolonged incapacity for work. If incapacity continues beyond the normal expectations for the process undergone, the individual should be managed within the absence management procedure as per any other colleague.

The timing of the transition will be as nominated by the colleague in consultation with the third party medical specialist supervising the treatment. Provided that reasonable notice is given, the Company will not block or delay the transition.

## **5.4 REDEPLOYMENT**

A colleague cannot be obliged to accept redeployment as a result of his/her transsexualism against his/her wishes. However, in some cases the colleague may prefer to be redeployed; this may be considered where mutually agreeable. An inability by the Company to accommodate a preferred option for redeployment can't be offered as a fair reason for dismissal. Where redeployment takes place it's best timed to coincide with the change of social gender, so that the colleague starts his/her new post in the new gender role.

## **5.5 CHANGE OF RECORDS**

Where it's reasonable and practicable, an appropriate period of notice will allow the Company to change records at the start of the real life test. MA will provide appropriate recognition of the legal name change at this time in the form of changing payroll records, computer logins, colleague lists etc. to reflect the new name. In some instances, it may be necessary to retain records relating to an individual's identity at birth, e.g. for pension or insurance purposes. Access to any such records showing the change of name and any other details associated with the individuals' transsexual status, (e.g. records of absence for related medical treatment) should be restricted to staff who require such information in order to perform their specific duties. These staff could include those directly involved in the administration of a process, for example, Occupational Health Practitioner, or the person who authorises payments into a company pension scheme. It does not refer to colleagues, clients or any person who does not have a genuine need to know. Breaches of confidentiality should be treated in the same serious manner as any disclosure of personal details for any colleague.

In any case the individual must inform the Company before applying for a name change to external bodies such as the Inland Revenue, NIC Agency, DSS etc. in order that communication between the Company, particularly payroll department, and these third parties can be properly processed.

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## **5.6 SINGLE SEX FACILITIES**

We expect that a transsexual colleague would use the toilets / shower facilities appropriate to their new gender. However, the individual and his manager should agree the point at which the use of facilities should change from one sex to the other. This can be at the start of the real life test if mutually acceptable.

We recognise that to force a pre-operative (e.g.) male to female to use the male toilets despite living as, and looking like, a woman can be unkind. The fact that she still has male genitals is not relevant as they would only be exposed inside a toilet / shower cubicle.

It's not acceptable to insist that a transsexual person uses separate facilities e.g. the disabled toilet although this may be agreed as a useful compromise during the transition period. The adoption of a unisex facility in the area where the transsexual person usually works may be helpful. At Manchester site, if other colleagues are uncomfortable with shared facilities, there will in most cases be other facilities available for them to use.

Similarly, a transsexual colleague should be granted access to 'men only' or 'women only' areas according to their new gender at a mutually acceptable time.

It's important that any request to use the toilets / shower facilities appropriate to the new gender is fully considered by the line manager. If we are unable to accommodate the request at that time, a further review should be undertaken 3 months later.

## **5.7 DRESS CODES**

The standards of dress required should accommodate the process of transition from one sex to the other as long as this does not infringe on the Company's right to expect appropriate dress. This could be shown with regards to hair length and style or jewellery and without any obvious reference to any specific change of social gender (until the real life test begins). Where uniforms are worn, the person should be given the new uniform early in the process in order that s/he may become comfortable with it at home prior to wearing it at work from the agreed date.

## **5.8 PHYSICAL SEARCHES**

Once an individual obtains a GRC, they will be treated in all respects as being of the acquired gender, including for search purposes.

In the transition period a transsexual may only undertake, or be present at, a physical search of a same sex member of the public or member of staff. As this may be confusing (the physical appearance may at that stage differ from the biological gender), it would be better to avoid this situation arising during the transition period by allocating such duties to other members of the team. Searches involving removal of outerwear only are acceptable.

A colleague in a transition period should only be searched by and in the presence of a member of staff of the same biological sex. Where a colleague is known to be undergoing gender reassignment, it would be good practice to ask him/her how s/he would like the situation to be managed. Searches involving removal of outerwear only are acceptable.

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## 5.9 INSURANCES

A colleague who has undergone gender reassignment but does not have a gender recognition certificate may be required to disclose his or her gender history for insurance purposes. The Company will need to check with any insurance providers whether they need to be made aware of a transsexual colleague's status. Failure to provide the information, if required, can invalidate insurance cover. MA will obtain the colleague's written consent before passing on information. There may be an obligation to inform insurers in confidence of the information in relation to some types of group policy, these being:

- permanent health or income protection;
- private medical insurance;
- personal accident insurance;
- life assurance;
- motor vehicle insurance.

## 5.10 PENSION

**State Pension:** If the colleague has a gender recognition certificate then s/he she will be treated according to the acquired gender for State Pension purposes. If the colleague does not have a gender recognition certificate, State Pension rights will remain in accordance with the sex recorded on his or her birth certificate. A transsexual woman without a gender recognition certificate who works beyond age 60 can make separate arrangements for the payment of national insurance contributions so as to retain her privacy in the workplace.

**Occupational Pension:** It's for the scheme to decide how to treat occupational pension benefits and Group HR will advise on this as required.

It's good practice for people to be treated as having their birth gender up to the point of transition, i.e. the point when they start to live fully in the acquired gender, and as having their acquired gender from the point of transition. In some cases, it is considered administratively convenient, with the agreement of the transsexual person, to treat him or her as having the acquired gender for the entire duration of the pension contribution history.

If survivor's benefits are limited under the scheme rules to spouses or registered civil partners, survivor's benefits for a transsexual employee will depend on the marriage relationship or civil partnership status of the employee. A transsexual person who has not obtained a gender recognition certificate can legally be married to a person of the opposite gender to his or her birth gender. A transsexual person with a gender recognition certificate may legally marry someone of the opposite gender to his or her acquired gender or register a civil partnership with a person of the same gender. If trustees have discretion to make provision for other survivors, this discretion must not be operated in a way that discriminates on grounds of gender reassignment.

## 5.11 RECRUITMENT

A job applicant's gender identity status is irrelevant to the recruitment process, except in the rare circumstances where a genuine occupational qualification applies to the job. If MA is relying on a genuine occupational qualification, it will make this clear in the recruitment material. Interviewers will not ask questions about gender identity status and job applicants are not required to volunteer information about it, unless a genuine occupational qualification makes this relevant. A job applicant with a gender recognition certificate is never required to disclose his/her gender history. If during the recruitment process information is disclosed about a job applicant's gender history, e.g. because certain documents are in a previous name, the Company will keep the applicant's gender history confidential and will not take this into account in the selection process, unless a genuine occupational qualification makes this relevant. MA will assess candidates for employment objectively against the requirements that are necessary for the effective performance of the job.

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Where a reference is required from a past employer, strict confidentiality and respect for dignity should be applied, and the name by which the individual addressed himself at the time of that prior employment should be used.

Where disclosure from the Criminal Records Bureau (CRB) is required as part of the recruitment process, applicants must disclose any previous names and / or gender to the CRB. Transsexual applicants may make use of the special application procedure established by the CRB so that their previous name is not disclosed to the Company.

## **References**

If giving a reference for someone moving to a new job, this should be in the name that will be used in the new job and must not 'hint at' a former name.

## **5.12 CAREER DEVELOPMENT**

Transsexual people may have experienced lengthy periods of unemployment or time away from the workplace due to sickness absence. As per standard MAG practice, the Company should support their individual development needs by carrying out training needs analysis and offer them the support and training they may need as part of their ongoing developing role.

## **5.13 HARASSMENT**

MAG will strive to offer protection from harassment by other colleagues or third parties during the course of employment, in line with the provisions of the Dignity at Work Procedure. Harassment or failure to treat the person with respect and dignity will not be tolerated.

## **6. FURTHER INFORMATION**

Further information on the subject may be found at:

Press for Change  
Gender Recognition Panel  
The Gender Trust

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

## **7. REVISION HISTORY**

| <b>Date</b> | <b>Revision Description</b>                | <b>Revised By</b> |
|-------------|--|-------------------|
| 17/06/08    | Issue                                      |                   |
| 25.09.08    | P10. Addition of 5.8 Physical Searches     | Nikki Wollerton   |
| 01.10.09    | MAG issue at East Midlands                 | Vickie Blackhurst |
| 01.03.10    | MAG Issue at Humberside                    | Vickie Blackhurst |
| 18.03.10    | P10. Revision of 5.6 Single Sex Facilities | Helen Tomlinson   |

These guidelines are approved by:  
John Hampton, Director of Group Reward & Employment Policy