

Gender reassignment discrimination

1 . What the law says

Gender reassignment is one of 9 'protected characteristics' covered by discrimination law (Equality Act 2010).

Gender reassignment discrimination includes direct and indirect discrimination, harassment and victimisation.

Discrimination can happen in any aspect of work. It can result from decisions made at work or from how people behave towards each other.

It could be a regular pattern of behaviour or a one-off incident. It can happen in the workplace, at work social events or when people are working remotely.

Terms used around gender reassignment

The law uses 'transsexual' to describe people with the protected characteristic of gender reassignment. Many people consider this term outdated and prefer to use 'transgender' or 'trans'.

In this advice, we use 'transgender' and 'trans'.

What gender reassignment means

Gender reassignment describes a process of reassigning someone's sex. This is usually referred to as transition.

The law (Equality Act 2010) describes it as 'changing physiological or other attributes of sex'.

By law, someone has the protected characteristic of gender reassignment if they:

- are proposing to transition or partly transition
- are transitioning
- have transitioned or partly transitioned

Someone has the protected characteristic as soon as they propose to transition, even if they go no further.

They do not need to:

- have any medical treatment or surgery
- complete a transition process
- apply for or get a Gender Recognition Certificate (GRC)

Gender Recognition Certificates

A Gender Recognition Certificate is a document that changes a person's sex for legal purposes. Many transgender people do not have one.

An employer should not ask to see an employee's Gender Recognition Certificate. An employer must not disclose that someone has a Gender Recognition Certificate or is applying for one.

[Find out more about Gender Recognition Certificates on GOV.UK](#)

Who is protected by law

At work, the law protects the following people against discrimination:

- employees and workers
- contractors and self-employed people hired to personally do the work
- job applicants
- former employees

Non-binary people and people with variations in sex characteristics

Depending on the circumstances, the law on gender reassignment discrimination might protect:

- non-binary people – a non-binary person is someone who does not see themselves as exclusively a man or a woman
- people with variations in sex characteristics (VSC) – some people use the terms differences in sex development (DSD) or intersex

Someone might not know if they're protected by law. They can still raise any issues with their employer. Find out more about [making and handling complaints about gender reassignment discrimination](#).

Gender reassignment and sexual orientation

Being transgender is not related to a person's sexual orientation. Sexual orientation is about emotional, romantic or sexual attraction to other people.

Sexual orientation is a different protected characteristic covered by discrimination law.

[Find out more about sexual orientation discrimination](#)

Understanding more about discrimination

[Find out about the different types of gender reassignment discrimination](#)

If you need more general discrimination advice, you can read [discrimination and the Equality Act 2010](#). This includes advice on employer responsibilities and on other protected characteristics.

Contact the Acas helpline

If you have any questions about gender reassignment discrimination, you can [contact the Acas helpline](#).

2. Types of discrimination

Gender reassignment discrimination includes:

- direct discrimination
- indirect discrimination
- harassment
- victimisation

It's important to understand the different types of gender reassignment discrimination. This is so you know what your rights and responsibilities are under discrimination law (Equality Act 2010).

For full definitions of each type of discrimination, read our advice on [discrimination and the Equality Act 2010](#).

Direct discrimination

Direct gender reassignment discrimination is when someone is put at a disadvantage or treated less favourably because:

- they're transgender
- they are wrongly believed to be transgender – this is called 'discrimination by perception'
- they have a connection with someone who's transgender – this is called 'discrimination by association'

[Read the full definition of direct discrimination](#)

Example of direct discrimination

Alex is a sales rep and wants to continue working as usual while transitioning. Alex's employer thinks customers might be prejudiced and the business could lose money. They instruct Alex not to visit customers but to phone instead. This is likely to be direct discrimination.

Example of discrimination by perception

Ash goes to an interview. The employer is surprised by Ash's appearance and voice, which they think are 'too masculine'. The employer thinks Ash is a trans woman. Because of this the employer does not offer Ash the job. Ash is not a trans woman so this is discrimination by perception.

Example of discrimination by association

Jordan's partner is transgender and comes to Jordan's work social event. Afterwards, Jordan is picked on by colleagues and excluded from other social events. Jordan is not transgender but is being discriminated against because of their connection with a transgender person. This is discrimination by association.

Indirect discrimination

A working practice, policy or rule might apply to everyone but put people with the protected characteristic of gender reassignment at a disadvantage. This is indirect gender reassignment discrimination.

[Read the full definition of indirect discrimination](#)

Example of indirect discrimination

Raja is starting a new job. The employer asks for proof of identity. The employer's policy says they only accept a birth certificate.

Raja is a trans man. The birth certificate says 'female'. Raja would like to provide something else but the employer refuses. Raja does not want to be outed to the employer as transgender. Raja decides not to take the job.

This is likely to be indirect discrimination, because the employer's policy puts Raja at a disadvantage. The employer could use other ways to prove identity.

Harassment

There are 2 types of harassment that can happen because of gender reassignment. These are:

- harassment related to gender reassignment
- less favourable treatment as a result of harassment

Harassment related to gender reassignment

Harassment related to gender reassignment is when:

- someone experiences unwanted behaviour
- the unwanted behaviour is related to them having the protected characteristic of gender reassignment

To be harassment, the unwanted behaviour must have either:

- violated someone's dignity
- created an intimidating, hostile, degrading, humiliating or offensive environment

It can be harassment if the behaviour:

- has one of these effects even it was not intended
- intended to have one of these effects even if it did not have that effect

[Read the full definition of harassment](#)

Example of harassment directed at a specific person

Andie is a trans woman and has asked to be referred to as 'she' or 'they'. Two people Andie works with keep referring to Andie as 'he'.

Andie tries to ignore this, thinking it's accidental. However, it becomes clear this is deliberate. Andie feels upset and humiliated.

This is likely to be harassment related to gender reassignment. Andie's employer could be legally liable for the harassment if they do not take steps to stop it. The employees who carried out the harassment could also be liable.

Example of harassment not directed at a specific person

Leslie strongly believes a person cannot change their sex. Leslie wants people at work to share this belief and emails the team some links about it. In the emails, Leslie makes degrading comments about people who are transgender.

Sam works with Leslie. Sam is proposing to transition and has not told anyone yet. Sam feels intimidated by Leslie's behaviour. Although Leslie's actions are not directed at Sam, this is likely to be harassment related to gender reassignment.

Leslie is entitled to hold this belief but not to express it in a way that harasses others.

Less favourable treatment as a result of harassment

This is when someone is treated less favourably because of how they responded to previous harassment related to gender reassignment.

[Find out more about less favourable treatment as a result of harassment](#)

When harassment can be a crime

Harassment related to gender reassignment can sometimes be a crime.

For example if someone has experienced a hate incident like:

- physical or verbal abuse
- threats of physical violence
- online abuse
- damage to their property

[Find out more about hate crime at work](#)

Victimisation

Victimisation is when someone is treated less favourably as a result of being involved with a discrimination complaint.

It does not matter if the complaint was made by them or someone else.

The law also protects someone from victimisation if someone else thinks they're involved with a complaint.

Ways someone can be victimised include being labelled a troublemaker, being left out, or not being allowed to do something.

[Read the full definition of victimisation](#)

Example of victimisation

Pat works in HR for a large company. An employee who is transitioning has a problem with getting their name updated on staff systems. The employee raises a grievance and Pat supports it as a witness. Pat says the company's systems caused discrimination. Pat is strongly criticised by senior management for not being loyal to the company. This is likely to be victimisation.

When discrimination might not be against the law

In certain circumstances, an employer might be able to make or justify a decision based on gender reassignment.

An employer can make a decision that directly discriminates if:

- it's positive action – to address a situation where employees with a protected characteristic are at a disadvantage or underrepresented
- there's an occupational requirement – when having or not having a protected characteristic is vital for a job

An employer can justify a decision that indirectly discriminates if there's 'objective justification'. The employer must be able to prove both of the following:

- there's a 'legitimate aim'
- the discrimination is 'proportionate, appropriate and necessary'

This is a complex area of law. Before making any decisions, find out more about:

- [positive action](#)
- [an occupational requirement in recruitment](#)
- [objective justification](#)

Get more advice and support

If you have any questions about gender reassignment discrimination, you can [contact the Acas helpline](#).

You can also get support from:

- [LGBT Foundation](#)
- [Switchboard national support line](#)

3. Making and handling complaints

If someone has experienced or witnessed gender reassignment discrimination at work, they can make a complaint to their employer. The employer should take it seriously and look into it as soon as possible.

Gender reassignment discrimination can be very distressing. It can have a severe impact on someone's mental health and wellbeing.

Employers should make sure that:

- employees know how to report gender reassignment discrimination
- anyone who's experienced or witnessed it feels safe, protected and supported

They should also make sure that anyone accused of gender reassignment discrimination:

- is treated in an impartial and fair way
- is not discriminated against on any other grounds, for example [religion or belief discrimination](#)

If you have experienced discrimination

If you believe you've experienced discrimination at work, you can make a complaint to your employer.

You should make a complaint as soon as possible. But if you make a complaint a long time after an incident took place, your employer should still take it seriously.

[Find out what to do if you've been discriminated against](#)

Witnessing discrimination

If you think someone at work is being discriminated against, there are actions you can take. This could include trying to stop it happening if you feel it's safe, supporting people or giving evidence.

Witnessing discrimination might also affect you personally. In some circumstances, you could make a harassment complaint yourself.

[Find out more about witnessing discrimination](#)

Handling a discrimination complaint

If you're an employer or manager, you should look into any discrimination complaint in a way that's fair and sensitive to:

- the person who made the complaint
- anyone who witnessed it
- anyone accused of discrimination

[Find out how to handle a discrimination complaint](#)

4. Preventing discrimination

All employers should take steps to make sure gender reassignment discrimination does not happen at work.

As an employer, you should:

- aim for a culture where everyone knows that gender reassignment discrimination and transphobia are not acceptable
- recognise and promote the benefits of a diverse and inclusive organisation

[Find out more about improving equality, diversity and inclusion](#)

Steps for preventing gender reassignment discrimination

Many ways to prevent discrimination apply equally to all 'protected characteristics'. You can find out more in our advice on [preventing discrimination](#).

Measures that are specific to preventing gender reassignment discrimination include:

- supporting an employee who is transitioning
- having a transitioning at work policy
- considering things that particularly affect transgender employees
- reviewing any policies on absence or appointments
- appointing an LGBT+ champion
- setting up a staff LGBT+ network

LGBT+ stands for lesbian, gay, bisexual, transgender and other groups.

If you're a small organisation with limited resources, you might not be able to take all measures. But you have a duty to prevent discrimination, and there's still a lot you can do. Making your organisation more inclusive does not have to be costly or complicated.

If you're a public sector employer, you also have legal responsibilities under the [public sector equality duty](#).

Supporting an employee who is transitioning

Deciding to transition is a big step for someone to take. The process will affect every part of their life.

It's important that:

- an employee feels able to talk openly with their employer
- managers know how to respond

Things you might need to discuss and agree include:

- what time off the employee might need, for example for medical appointments
- whether the employee needs any temporary changes to their job
- if the employee is changing their name, title or pronoun, when that change might happen
- who they want to tell and how and when they want to tell them
- how and when to make changes to staff records and systems, for example their email account

You should have regular conversations with an employee who is transitioning. Their plans or preferences might change.

Confidentiality

You must keep information about an employee's transition confidential unless they agree for you to share it.

You should take the lead from the employee who's transitioning when deciding how and when to tell other people.

They might want to:

- tell some people but not others
- tell different people at different times
- tell people in a particular way
- stop sharing information

For example, an employee might want to tell their immediate team about their transition straight away. But they want to tell the rest of the department later.

If some employees know about it sooner than others, it's important they keep the information confidential.

An employee might not have told people outside of work about their transition, for example family members. Check with the employee what to do if you need to contact them outside of work. For example, if you need to get in touch with their emergency contact.

Pronouns

Pronouns are words that refer to people without using their name. For example, he, she and they.

Using a transgender employee's old pronouns is known as misgendering. Doing this deliberately can be a form of harassment.

You should ask an employee who is transitioning what their pronouns are. Communicate this to other staff. Do this when and how the employee wants you to.

Some employees might feel uncomfortable about using someone's new pronouns. As an employer, you cannot force an employee to use someone's new pronouns. However, you can expect them not to use the old pronouns.

Some employers encourage their staff to share their pronouns. For example, in their email signature.

Having a transitioning at work policy

You should consider having a transitioning at work policy, especially if you're a large employer.

You might not currently have any transgender employees, but this can change. And you might have employees who are not comfortable with people knowing they're transgender.

A policy can:

- show that transitioning at work is something you have thought about and would support
- help you prevent discrimination, which can happen when employers make decisions without thinking them through
- help employees and managers know what they need to discuss and plan
- make conversations easier

A policy should set out:

- how you will support an employee before, during and after transition
- what an employee and their manager need to discuss

Check the policy fits with other policies you might have. For example, policies on absence, menopause, maternity or adoption. If you provide healthcare benefits, you should check how they apply to people who are transitioning.

If you're a small employer, you might not want to create a policy. However, you could still think about how you would support an employee through transition.

Considering things that affect transgender employees

Some aspects of work particularly affect transgender employees. These include:

- staff records
- IT and security systems
- legal checks
- toilets and changing facilities
- dress codes

Staff records

Someone being transgender is sensitive personal information. As an employer, you must not disclose this information to another person without the employee's consent. The law is the Gender Recognition Act 2004.

You must keep records showing an employee's previous name, title or pronouns confidential.

You must deal with information relating to an employee's health under the General Data Protection Regulations (UK GDPR).

If you update an employee's payroll records, you need to tell HM Revenue and Customs (HMRC). Let the employee know before you do this. [Find out what to report to HMRC on GOV.UK.](#)

IT and security systems

When an employee changes their name, you should update their work IT account. For example, you might need to change their email address.

You could consider offering an employee 2 email accounts for flexibility. For example, if they want to use their new name internally, but not when contacting clients.

You should update any systems for entering the workplace, for example security passes or photo ID.

You should agree with the employee how and when to make these updates.

This will help prevent problems such as:

- an employee not having email access
- an employee not being able to enter the workplace
- accidentally revealing that an employee is transgender

Legal checks

A transgender employee's documents for legal checks might be in a different name. For example, identification documents, DBS records or references from previous employers.

You should handle this situation sensitively and confidentially.

[Find out about the DBS confidential checking service for trans employees on GOV.UK](#)

Toilets and changing facilities

At some point during their transition, an employee will probably want to change the facilities they use.

If an employee tells you they want to use different facilities, you should talk to them about:

- when the change could happen
- what, if anything, to tell other employees

Everyone at work should be able to use facilities they feel comfortable with. Making a transgender employee use facilities they're not comfortable with could be discrimination.

If other employees raise concerns related to facilities, you should be sensitive to these. Consider the concerns and look for practical solutions that everyone can accept.

Good solutions might include:

- having one or more self-contained toilets that anyone can use
- making sure changing rooms have lockable cubicles

Dress codes

It's reasonable for an employer to set standards of dress for their organisation.

However, you should make sure any dress codes or uniforms you have are flexible. They should allow employees to dress in a way they feel comfortable with. What someone feels comfortable with might change as they transition.

Reviewing policies on absence or appointments

An employee can transition without any medical intervention.

However, a transgender employee might need time off for things like:

- counselling
- hormone treatment
- voice therapy
- hair removal
- surgery

You must not treat the employee less favourably than if the absence was due to illness or injury.

Make sure any absence policies you have do not discriminate against transgender employees.

Be prepared to talk with an employee about their plans. Plans might change so it's important to be flexible.

You should bear in mind that an employee:

- might need to attend a specialist clinic that is far away – their time off might need to include time for travelling
- might have waited a long time for an appointment – you should not ask them to rearrange appointments

You should not assume that surgery related to gender reassignment is elective or cosmetic. Being able to have relevant surgery can be important for an employee's physical and mental health.

Appointing an LGBT+ staff champion

An LGBT+ staff champion is an employee who is committed to promoting equality for LGBT+ staff and tackling discrimination.

They should be:

- willing and able to give time to the role
- senior enough to be able to influence decision-makers and make sure actions are taken

Their role could include:

- keeping up to date with law and good practice
- understanding what transitioning at work involves
- helping employees who are transitioning or their managers to resolve problems at work

Setting up a staff LGBT+ network

A staff LGBT+ network is a formal group for LGBT+ staff and their allies to:

- share experiences
- support each other
- raise issues that need addressing

An ally is someone who is not LGBT+ but wants to help make sure that their organisation is inclusive. They can be from any part of an organisation, working at any level.

Get more advice and support

If you need help to deal with any challenges in your organisation, you can:

- [contact the Acas helpline](#)
- [get tailored support for your organisation](#)