

Gender reassignment discrimination: ten top legal considerations for employers

Knowledge and public awareness of gender reassignment and gender identity are growing. It is important for employers to understand the implications for the workplace. Here are ten top tips to help employers effectively manage what can be complicated areas, especially for small firms:

- 1. Understand the difference between gender reassignment and the non-binary gender identities.** Gender reassignment covers changing gender from man to woman or woman to man. The non-binary gender identities do not identify with being either man or woman.
- 2. Understand that while the Equality Act 2010 protects job applicants and employees from discrimination because of gender reassignment, it does not explicitly protect non-binary identities. But, it is good practice for employers and colleagues to also support non-binary applicants and employees.**
- 3. Understand that the terms 'transsexual' and 'transgender' or 'trans' do not mean the same thing.** 'Transsexual' is a legal term which means changing to the opposite gender, while 'transgender' or 'trans' are non-legal umbrella terms including both 'transsexual' people and people with non-binary identities.
- 4. Be aware that gender reassignment discrimination is more likely to occur in recruitment, promotion, training, dismissal and redundancy.**
- 5. Be aware that while employers and employees can be liable for their own discrimination, employers can also be liable for their employees' acts.**
- 6. Be aware a 'transsexual' job applicant is not required to tell the employer they have changed gender either before or if they get the job.**
- 7. Make sure an employee or job applicant is not 'outed' as 'trans' as this is likely to breach laws giving rights to a private life.**
- 8. Make sure an employee or job applicant is treated with respect and accepted in the gender identity they present in, but do not make assumptions about their gender because of their appearance.**
- 9. Develop 'trans'-inclusive policies** covering matters such as use of toilet, changing and shower facilities, and changing the employee's personal records and other details such as their pass to get into work, pay slip and email address.
- 10. Take great care if including absences because of gender reassignment** in 'managing absence triggers' - these are the number of days' absence when managers would consider warnings, and ultimately dismissal, unless attendance at work improves. An employer is likely to find it difficult to justify such an approach.

Want to learn about these areas and more? Download the free Acas guide **Gender reassignment discrimination: key points for the workplace** from:

www.acas.org.uk/genderreassignment