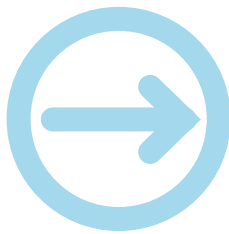




transsexuality

Discrimination



What is transsexuality?

The Tasmanian *Anti-Discrimination Act* 1998 (“the Act”) prohibits discrimination on the basis of transsexuality. Transsexuality appears under the definition of sexual orientation in the Act.

Transsexual means a person of one sex who –

- assumes the bodily characteristics of the other sex by medical or other means; or
- identifies himself or herself as a member of the other sex; or
- lives or seeks to live as a member of the other sex.

If a person is disadvantaged or treated less favourably because they identify with any of the above, they may lodge a complaint.

It is also discrimination on the basis of transsexuality if someone is treated less favourably because he or she is thought to be transsexual and they are not.

Example of direct discrimination
Joanna has undertaken sexual reassignment surgery and applies to amend her birth certificate and change her name from John to Joanna. When Joanna returns to work after the surgery, her boss, Robert, prevents her from using the female toilets and repeatedly calls her by her former name ‘John’ when he knows this upsets her.

Example of direct discrimination
Michael’s biological sex at birth was female. Michael is currently in the process of changing sex to become a male. Michael attends the supermarket, which he has been attending for the past 10 years. While Michael and the shopkeeper have always been friendly with each other, on this occasion the shopkeeper serves all the other customers but refuses to serve him.

Where is it unlawful to discriminate?

The Act prohibits transsexuality discrimination in the following areas:

Employment - this includes paid or unpaid, casual, permanent or temporary employment.

Education and Training - at schools, colleges, universities or other educational institutions where education and training is provided.

Provision of facilities, goods and services – this includes access and use of public places, transportation and travel and private or government service providers.

Accommodation – this includes residential housing and business accommodation i.e. rental property, hotel, motel, boarding house or caravan.

Membership and activities of clubs – being a member of a club and participating in activities associated with the club.

For more information about the registration process contact the Office of Births Deaths and Marriages on 1300 135 513.

If a person believes they have been discriminated against on the ground of transsexuality, they may lodge a complaint or seek further information by contacting the Office of the Anti-Discrimination Commissioner.

Contact Us

To lodge a complaint or seek further information, contact the office or visit the website. Please note the office is unable to provide legal advice to parties of a complaint.

Office of the Anti-Discrimination Commissioner
Level 1, 54 Victoria Street, Hobart, Tasmania 7000
GPO Box 197, Hobart, Tasmania 7001

Telephone **1300 305 062 (local call)**
(03) 6233 4841

Facsimile **(03) 6233 5333**

TTY **(03) 6233 3122**

Email **antidiscrimination@justice.tas.gov.au**

www.antidiscrimination.tas.gov.au

Disclaimer: This information is intended to provide a general understanding of the Anti-Discrimination Act 1998. To maintain confidentiality case examples are not based on actual complaints lodged with this office.

Direct transsexuality discrimination

Direct transsexuality discrimination takes place if a person treats another person on the basis of their transsexuality, or imputed transsexuality, less favourably than a person without that attribute or characteristic.

For direct discrimination to take place it is not necessary that:

- transsexuality be the sole or dominant ground for the unfavourable treatment; or
- that the person who discriminates regards the treatment as unfavourable; or
- that the person who discriminates has any particular motive in discriminating.

Indirect transsexuality discrimination

Indirect transsexuality discrimination takes place if a person imposes a condition, requirement or practice, which is unreasonable in the circumstances and has the effect of disadvantaging a member of a group of people who share a particular attribute (transsexuality) more than a person who is not a member of that group.

Common myths about transsexuality

There are a number of myths that exist about people who are transsexual. This brochure aims to provide practical information and 'de-bunk' some of these myths.

Myth 1: Gender identity matches biological sex at birth

A person's biological sex at birth can be different to a person's gender identity. Some people born as one sex feel that their true gender is the other sex.

Myth 2: People who are transsexual are also gay

Although under the Act transsexuality comes under the attribute of sexual orientation, a person's sexual orientation is separate from their gender identity. In other words, a person who is transsexual could be heterosexual, bisexual or homosexual.

Myth 3: A person must have undergone sexual reassignment surgery before the Act protects them

A person does not have to have undergone sexual reassignment surgery, or have taken any medication such as hormones, for the Act to protect them.

Myth 4: Drag Queens are transsexual or gay

This is not automatically so. Some Drag Queens only dress up as women for artistic performances. When not performing some identify as their sex at birth. In their private life they may be heterosexual, bisexual or homosexual.

Myth 5: A person cannot legally change his or her sex/gender

People may legally change their birth certificate held by the Office of Births, Deaths and Marriages to reflect their new sex/gender.

Any person who was born in Tasmania, who has undergone sexual reassignment surgery and is not married, may apply to register a change of sex. An application is to be accompanied by –

- a statutory declaration from each of 2 medical practitioners verifying that the person has undergone sexual reassignment surgery; and
- any other document or information that the Registrar requires.

Once a person's birth certificate is amended they are entitled to be treated in the same way as any other person of that sex/gender. For example, a person could apply for a job that is legally gender specific, or attend a single sex school.

Please advise the office prior to an appointment if you require special assistance or the services of an Interpreter/Auslan.