

Salt and Light Papers provide important information and analysis to help Christians and Churches to engage with 21st century social issues

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CHURCHES AND THE GENDER RECOGNITION ACT

Although there are only about 5,000 transsexuals in the UK, the Gender Recognition Act was passed in 2004 to give them new rights under the law. The provisions of the Act will have implications for any church which encounters a trans-sexual, and Affinity has therefore produced a summary of the background to the Act, the exceptions which apply, and the pastoral and practical issues which churches will need to consider.

All churches need to be aware of the implications of the Gender Recognition Act 2004, whose provisions came into effect on 1 April 2005.

For the help of churches, we have set out the various implications under the relevant headings below.

1. The biblical view of transsexualism and gender re-assignment

Many evangelical Christians take the view, on the authority of Genesis 1:27, that it is not biologically possible for a man to become a woman, and vice versa. They also generally believe that gender must be objectively and biologically defined, and should not be determined by psychological factors, behavioural tendencies, or subjective feelings or preferences.

2. Does the Gender Recognition Act conflict with the biblical view?

Yes. The aim of the Gender Recognition Act is to enable transsexuals to apply for, and, where the criteria set out in the Act are met, to be granted, a gender recognition certificate entitling the holder to be recognised as belonging to the acquired gender. In the words of the Act itself, this means that *'the person's gender becomes for all purposes the acquired gender.'*

In 'recognising' gender change, the Gender Recognition Act, however well-intentioned in seeking to meet the apparent needs of those experiencing gender confusion, contradicts the biblical view,

and gives legal credibility to a process which those who follow biblical principles will find unacceptable and unjustifiable.

3. What does the Gender Recognition Act contain which will present a problem for evangelical churches?

The Gender Recognition Act gives the holder of a gender recognition certificate the right to be regarded in law as belonging to the acquired gender. This means that the person has the right to be treated in exactly the same way as someone would be treated who was born into the acquired gender. The primary application of this is in the individual's dealings with the State. Passports and driving licences will all be changed to reflect the new gender and the individual will be entitled to marry as if they were members of the opposite sex.

The law does not yet require all providers of goods, facilities and services to recognise the person in their new gender, although in practice many will.

If the holder of a gender recognition certificate is not treated in the same way as someone born into the acquired gender, this is not illegal under the Act. However, it does leave the individual, individuals or organisation which treats them differently at risk of a speculative civil action being taken against them.

For instance, a church would be refusing to recognise a person's gender re-assignment if it did not allow a person who had acquired a gender recognition certificate as a woman to attend a women's meeting. Freedom to use the toilet accommodation provided for those of the acquired gender would also be an issue. Prior to the Gender Recognition Act, litigation on these points was attempted and failed. Legal advice indicates that such an action would still fail, but there is uncertainty.

4. What does the Act specify with regard to the offence of disclosure?

It is a general provision within the Act that it is a criminal offence to disclose to someone else, without the subject's consent, information gained in an official capacity that a person has undergone gender re-assignment or has applied for or been granted or refused a gender recognition certificate.

However in subsequent provisions which carry the same force of law as the Act itself, some exceptions have been approved which are applicable to churches. It is permitted for church leaders to disclose gender re-assignment information to anyone else involved in decision-making processes in connection with marriage, church membership, baptism, communion, employment and ordination.

This means, for instance, that where it is the practice for church membership applications to be determined by a Church Meeting, a church leader would be permitted to disclose to that Meeting that a membership applicant had been the subject of gender re-assignment.

It also means that church leaders can inform the other church officers or trustees responsible for deciding whether a particular marriage can be permitted to take place in a church that one of the parties has been the subject of a gender re-assignment.

5. What attitude should an evangelical church take towards someone who has undergone gender re-assignment?

Such a person may be a stranger newly arrived in the church, a person attending just one of the church's regular activities, or someone who has been in the church for many years. Given the small number of people involved in gender re-assignment nationally, only a very small number of churches will encounter such a person, but all churches need to decide how they will view and treat such a person, before the encounter occurs. Our advice is:

- To treat such a person with the same welcome, love, support and courtesy as the church would give to anyone else;
- To acknowledge that although evangelicals do not recognise the reality of gender change, they do accept that a small number of people have personal and complex gender problems, however caused, which need sympathetic understanding and pastoral support;
- To make the most sympathetic arrangements over social and practical considerations which it is possible to make, taking full account of the principles and pastoral issues, the concerns of the person involved, and the sensitivities of everyone in the church. This will involve seeking the goodwill, understanding and generosity of spirit of the person involved, and of the church as a whole.

Our advice has not spelt out a particular course of action. This is obviously best put in place by the churches themselves. This advice statement is intended to make churches aware of the issues involved, and to alert them to the need to give attention to how they would handle such a situation.

This statement is not a legal opinion, nor does it constitute professional advice. Individual churches are responsible for their own interpretations of law, and for their own policies and conduct in the light of the issues raised.

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