



Changeling Aspects

In affiliation with Transbridge Townsville

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Open Letter to the Nine Australian Governments Attorney's-General

I am a 75 year old Trans woman. I trust and hope that you read this letter and come to understand many of the problems that we in the Trans community have to suffer. If at the end of reading this epistle you have come to understand a small part of what we suffer, in order to become our true selves, then this letter has been extremely useful in our quest for recognition.

We are not as many think, Gay. Our condition is recognised as a medical condition enshrined in the "The World Professional Association for Transgender Health (WPATH) and their Standards of Care (SOC)". We do not agree with us being classified as having a mental condition, Gender Identity Disorder (GID). Currently we are fighting this in order to have the fact recognised that we can overcome Gender Identity Disorder/Transsexualism (GID/TSism) by having our mind and body brought into congruency. This of course means Sex Affirmation Surgery, that is, if we can afford it. Because of this, many never complete their journey. There are also those who choose not to have surgery, cannot afford it, or are unable to because it could be life threatening.

Australia is unlike the UK and other Countries, such as Cuba and Brazil who pay for surgery; here we have to pay for everything. Scripts, professional fees that are incurred as we are expected to be assessed, in that we do indeed have GID/TSism and are not mentally unbalanced in any way.

All of this can and does lead to frustration, depression, self harm and suicidality. Our suicide rate attempted and achieved is far too high, as it is in the mid 40%. That is across the age range from young to elderly.

If we are cared for currently, at the outset of our journey, then we will no longer be a burden on society and a drain on the health care purse. We can be extremely useful members of society, as we are in every sphere of society. Just name it, and we are there.

Cost of transitioning is out of the reach of most, as to achieve even a minor approach to our preferred gender is out of the reach of most. The full costs for a Female to Male (FtM) is in the order of \$200.000 and Male to Female (MtF) about \$150.000. That is just for surgery that we are expected to undertake. This does not include incidentals, such as make up, wigs, clothes for the MtF. For the FtM it is shaving gear and something other than a sock in their pants, as a prosthetic penis and testes is not a cheap item.

For a MtF, where do we start? Facial fuzz costs about \$25.000 to remove by electrolysis and takes 300+ hours of having needles stuck into your face. You might get lucky and be able to negotiate a cheaper rate. This is currently the only permanent solution to removing the beard.. Hopefully, this will never be a problem for the young MtF, as they maybe lucky enough to be



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allowed to go onto “Puberty Blockers” so will never grow a beard. There are of course other reasons for them to be allowed puberty blockers, as they will not have the height problems, musculature and deep voice to overcome. This affords them and their family time to decide if they are indeed Transsexual. If they decide they are not, then they can come off of the puberty blockers and go into a late puberty. This is still a controversial area.

Bottom surgery for a MtF costs in the order of \$30,000 and that includes the hospital bed, theatre, surgeon and anaesthetist. These costs can vary immensely as to where you have surgery performed. If you are fortunate enough to be able to afford top private health cover then much of the cost of hospitalisation is covered and only the surgeon and anaesthetist have to be paid. You can claim rebates from Medicare and the gap from private health care. This still means that you have to find the money before you can get back rebates. If you go offshore for surgery, then there are currently no rebates payable. There are many items that are considered to be cosmetic, and therefore are not covered for rebates. These are electrolysis, hair implants, breast implants, nose work, Adams apple shaved, voice training and surgery to shave the vocal chords among many.

The fact that there are only two surgeons, operating in Australia means that many go off shore, with Thailand being a preferred destination.

The FtM in the main have to go off shore for a phalloplasty if they decide to have it. Very few at present opt for this surgery as it is costly and invasive and does not work too well. Most choose to have top surgery and wait for a better system for bottom surgery, in the hope that it will improve in performance.

If going off shore you then have to consider your travel documents and this can be mind blowing for many. You cannot amend your passport until after surgery, so have to apply for a Document of Identity (DOI) which maybe acceptable in some countries. A limited Validity Passport (LVP) allows you to travel on it to find out facilities and to return within a year for the operation. On the DOI there is no mention of sex. The LVP offers a female name and photo, but a M in the box and where it is scanned on the passport. This as you can understand creates pressure for the person travelling as it means they are “Outing” themselves and are wide open to questioning by immigration. In this day and age of terrorism, you can understand why immigration would be likely to question a female travelling on a male passport. May as well use your original male passport, as many do.

We now come to the vexed question of an amended birth certificate. It cannot be amended until after sex affirmation surgery, which currently means “The alteration or removal of all reproductive organs” definition please of what constitutes male and female reproductive organs. If married you cannot amend your birth certificate, as all States and Territories require you to be “Over 18, single (read divorced) and to have undergone surgery. However, if you stay married you are able to apply for your passport to be amended to your preferred gender on a “Case by Case Basis” This leads to the farcical situation of a female passport and a male birth certificate, or vice versa for the FtM.

Another area of concern is that all government departments and agencies will allow you to change your name on their central records after you have done your name change. However, the change of sex is not done until after surgery. This leads to letters sent to Mr not Ms, or Miss and not Mr or Sir.



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There are over 40+ documents to amend, most of which can be done before surgery. The main ones cannot be done until after surgery, they are birth certificate, passport and the double whammy of having to go back to all the government departments and agencies to now have the sex amended on their central records.

For those of us born off shore, we not only have problems with our country of birth, but must now add Australia too. By applying to the Department of Immigration and Citizenship (DIAC) we can under the immigration FOI amend our residency status if only a permanent resident. If a citizen, then we can amend our citizenship. Both of these documents make no referral to sex, but do amend the date to when we arrived in the country, or took out citizenship and are in our change of name. Being a citizen allows us to have an amended or new Australian passport. DIAC do not require us to have had surgery as per the attached,

“Note: the surgeon’s statement would contain information such as confirmation that the person has undergone a full gender re-assignment procedure. The psychiatrist’s statement would provide confirmation that the person is living as their chosen gender of identity, has undergone hormone treatment and shows no intention of reverting to their original gender”

Currently those born off shore are only recognised in four States via a form of recognition certificate. Those four are South Australia (1988) Western Australia (2001) Victoria (2005) and New South Wales (2009). Both Victoria and New South Wales issue a recognised Details Certificate, which is designed for those of us born off shore, in order to recognise us in our preferred sex. They both offer this facility, but again you have to be “Over 18, single (read divorced) and have had surgery.

At this time, Queensland, Tasmania, the ACT and the Northern Territory do not offer any form of recognition for those born off shore. Does this mean that although we can be fully recognised via DIAC, we are not fully recognised at law within these four jurisdictions? I have been asking for a form of recognition certificate in Queensland since 2004.

Most will settle for their change of name via the Registry of Births, Deaths and Marriages in their State of birth or residency if born off shore. They can now amend their driver’s license, both of which can be done prior to surgery.

If staying married, then we have the situation that arises where the federal governments quote this “Letter from the Federal A-G dated 19-01-2009

While the reforms do not expressly address the sex or gender diversity of specific individuals, they ensure that same-sex de facto couples and their families are recognised and have the same entitlements as opposite-sex de facto couples. A transgender individual who remains married after surgery will not be deemed to be no longer married as a result of the reforms. The effect of the reforms is that such an individual will receive the same treatment regardless of whether they are considered to be a member of a same-sex or opposite-sex couple. (My highlighting)



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Letter from the Federal A-G dated 17-03-2009

In relation to your letter of 24 January 2009, I would like to clarify the Government's position. I can confirm that the Commonwealth Same-Sex discrimination law reforms will have no effect on the *Marriage Act 1961*. The Marriage Act provides that a marriage must be between a man and a woman. This is consistent with current Government policy and there are no plans to change the Marriage Act to allow for a marriage to be solemnized between same-sex couples.

Gender re-assignment surgery has never, of itself, changed the status of a marriage which was valid at the time of solemnization. It has always been the case that a validly solemnized marriage would continue, irrespective of whether one of the parties subsequently underwent gender re-assignment surgery. The same-sex reforms due to come into force on 1 July 2009 do not change that position. (My highlighting)

The legal recognition of the sex of transgender persons is primarily a matter for the States and Territories, as they are responsible for maintaining their respective Registers of Births, Deaths and marriages. All States and Territories have legislation which enables post-operative transgender persons to obtain either a recognition certificate or an amended birth certificate recording their preferred sex in certain circumstances, unless the person is a married person. Again, the same-sex reforms have no impact on this.

The Government's same-sex reforms amend 84 Commonwealth laws to remove discrimination against same-sex couples and their children. They extend to same-sex de facto couples the same entitlements and obligations that apply to opposite-sex de facto couples.

The deeming was in place as prior to the letter of the 19-01-2009 we were deemed to be a same sex couple by all government departments and agencies. The letter from the 17-03-2009 lays out the fact that we now are regarded as still married even if staying together after surgery. This returned all of the rights under the Marriage Act 1961 that we had lost. One of the main ones as the defined superannuation benefits that could again be passed on to a remaining spouse. However, although recognised by the federal government, this ruling is over ruled at State and territory levels because of the way their laws are enacted concerning Trans people. They require us, no FORCE us to divorce to be able to amend our birth certificate. As mentioned earlier, we can amend our passport if remaining married, so high farce reigns. This is now unconstitutional in both Austria and Germany.

Currently the Australian Human Rights Commission (AHRC) is undertaking a consultation process regarding discrimination on the basis of sexual orientation and sex and/or gender identity. All submissions will be collated and sent to the federal government. The interesting part for me is the 1984 Sex and Gender Act, as it only covers male and female, nothing in between. I have been told that existing discrimination against anyone outside of the binary and performed at State and Territory level will continue. Hence the submissions to recognise the discrimination against Trans people who stay married after surgery. For them to stand up in Court and ask for a divorce on the grounds of "Irretrievable breakdown" would mean perjuring themselves, as they still regard their marriage as sacrosanct.



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We are now fast approaching the question of ageing, as we too come to that period in our lives. Many of my friends are fearful of having to visit a GP, go into hospital let alone a care facility. Again, this comes down to education, understanding and empathy, much of which is sadly lacking at present. Again, governments must consider the needs of GLBTI people in this situation, but I speak for the Trans community.

As you can see from reading this letter, in order to achieve our true self in the gender we recognise our selves to be, is continually thwarted seemingly at every turn. Assessments, drugs and hormones, costs, law and documentation. I would remind you that none of this applies to GLB people.

Because of this, we feel we are totally forgotten when it comes to Human Rights and to Anti-Discrimination. We can and do voice these issues, but to date very little has been done. Please witness the very fact of what is happening with regard to the “Reform of Anti-Discrimination legislation, with particular reference to the Sex Discrimination Act 1984” as the Sex Discrimination Act 1984 only applies to the binary sexes, I understand that existing discrimination at State and Territory level concerning the requirement making us divorce in order to amend our birth certificate will be enshrined in any new legislation. This is why we have to make submissions to AHRC and the Senate Committee.

Yours Sincerely, Kathy Anne Noble.
President, Changeling Aspects
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