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## Power with Grace

### A Winning Combination

by Katherine Cummings from telephone and email material from Grace and Fiona, and with added detail from a [Sydney Star Observer story](#)  by Cara Davis

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**It is totally wrong for a person to be required to choose between their marriage and having appropriate documentation.**

**W**hen Grace Abrams married Fiona Power they were both aware that Grace would one day be taking the step which allows transgender people to claim the opposite

gender role in all facets of their lives, provided they fulfil certain bureaucratic prerequisites. One such condition is that the person who is to be legally (as opposed to innately or medically) reassigned, must be single. The alternative, too shocking to contemplate, would be a same-sex marriage, a terrible no-no in the eyes of unthinking politicians who are seldom clear on the differences between sex, sexuality, innate gender and gender role.

***I advise everyone in similar circumstances to apply for their passports now, before the politicians pass new legislation forbidding the newly-won advantage.***

Grace and Fiona went into their married relationship with open eyes. If they had been like most other couples faced with one party to the marriage transitioning F.T.M. or M.T.F. they might have divorced or continued in their marriage without the benefit of legislative documentary blessings in the form of revised birth certificate or access to a passport with the new gender shown.

Fiona and Grace were made of sterner stuff. After Grace went to Thailand for reassignment surgery she was refused a passport showing her as female on the grounds that she remained married to Fiona.

Grace appealed this decision to Alexander Downer, the Foreign Minister in September 2007, citing the Australian Passports Act, which says that every Australian citizen is entitled to a passport and the International Covenant on Civil and Political Rights, which says that everybody has the right to liberty of movement and freedom to choose their residence.

This position was resisted by the Department of Foreign Affairs, on the grounds that same-sex marriages are not legal in Australia, but on appeal to the Administrative Appeals Tribunal the decision was made in favour of Abrams and Power by the Deputy President of the Tribunal, the Hon. R.N.J. Purvis, A.M., Q.C. and the Minister for Foreign Affairs was instructed to issue a passport to Grace showing her female gender. "It is totally wrong," said Grace in a phone interview with *Polare*, "for a person to be required to choose between their marriage and having appropriate documentation."

"I advise everyone in similar circumstances to apply for their passports now, before the politicians pass new legislation forbidding the newly won advantage. There are a lot of couples like us, who have to choose between their family and having their gender recognised. We are the first officially recognised same-sex couple and if enough people follow our example we may be able to leverage it into a change in the law."

David Shoebridge, the lawyer who acted for Abrams, said the decision was a victory for common sense over prejudice.

It has been apparent for some time that the Department of Immigration is out of sympathy with transgender people who wish to have passports reflecting their innate gender. Recent decisions to force transgender people travelling overseas to have reassignment surgery, travel on passports showing their birth gender, or on travel documents with the gender space left blank have shown how out of touch with reality some politicians can be.

The measure, which led to a strong legal challenge from Stephanie Imbruglia, purports to be an anti-terrorist measure and is about as stupid as the theory that says asylum seekers arriving in unseaworthy boats are probably terrorists bent on Australia's destruction. Just as it is far more likely that a terrorist will arrive flying first class with forged documents and a suitcase full of money than risking the high seas in a leaky fishing boat, so it's obvious that a terrorist trying to infiltrate our borders will have access to any kind of travel documents needed.

To insist that a person who has been living in the new gender role for more than a year, often more than two, and no longer looks in any way like their predecessor person, should carry a travel document which draws unwanted attention to them from Immigration,

Customs and anti-Terrorism bodies is a form of bureaucratic bullying, not unusual in our current society, but certainly to be resisted wherever possible.

The gender variant community owes gratitude to activists like Grace Abrams and Stephanie Imbruglia and their brave supporters like Fiona Power. And we also owe them support wherever and whenever the need arises!

Anyone interested in the judgement and proceedings should refer to: [Administrative Appeals Tribunal of Australia website](#) 

## Grace Abrams

**From Sex And Gender Education (SAGE) website:**  Grace is a post-trans woman with experience in community support and counselling. At present she lives in Queensland with her partner. She is an active member of her communities, currently works in F.T.M. and recently won a landmark court case which awarded her a female passport despite being married (prior to surgery) to another woman. She hopes more people take advantage of this precedent so we can illustrate how unworkable and unfair current discriminatory legislation really is, and push for change and equality.



Grace does public speaking, guest-lecture spots and runs workshops on sex and gender, workplace diversity, L.G.B.T.I. issues and other stuff. She hopes to study psychology, work for social justice and travel. She describes herself as a secular humanist.

## Trans\* Woman Wins Landmark Passport Case

**Out In Perth 5th November 2007 by Megan Smith:**  Grace Abrams is a post-operative trans\* woman. She is also legally married to Fiona Powers, another woman. As a result Grace faced a dilemma familiar to many legally married trans\* individuals: divorce her partner to obtain government documents, such as a passport and birth certificate, recognizing her correct gender identity or remain married to her partner and be denied correct documentation.

Following her transition, Grace Abrams had her name legally changed and went about her day-to-day life as a woman. However, when she applied for a passport reflecting her gender identity, the government refused to grant a passport stating she was female, on the basis that her birth certificate listed her sex as male. Because the Marriage Act bars the government from recognizing same-sex unions, Grace Abrams was unable to change her birth certificate without first divorcing her partner.

Grace Abrams appealed the decision on the grounds that she had enough documentation without a birth certificate identifying her as female to be entitled to a passport stating she was female. Foreign Affairs Minister Alexander Downer upheld the decision refusing to grant a female passport to Grace.

"As a matter of principle I don't have any objection to issuing a new passport to a person who has changed their gender. In this case the difficulty arose from technical issues," Minister Downer told OUTinPerth.

The case was further appealed before the Administrative Appeals Tribunal (AAT), where Grace's lawyer and Greens Councillor David Shoebridge argued that Grace was entitled to a passport, as she could prove the two things she needed to in order to obtain a passport - her citizenship and her identity.

"Grace having provided the birth certificate she had, which showed her name as Grace Abrams, but didn't show her gender as female, together with a full explanation of that and unchallenged medical evidence that her gender was female, there was no issue as to her identity or her being of the female gender. In those circumstances, she was simply entitled to a passport. They offered her a passport as a man, even though it was not contested that her gender was female. They were willing to do that because they had some ideological problem with issuing her a passport recognizing her as female," said Mr Shoebridge.

In a landmark decision, the A.A.T. sided with Grace and awarded her a passport identifying her as female without requiring a matching birth certificate. The decision is the first time a married transgendered person has obtained government documents recognizing their gender without having to first divorce their partner. According to Grace Abrams, the case opens the door for other trans\* individuals to obtain proper documentation.

"It is a win for logic and sensibility. The next win for sense and logic is going to be the recognition that the Marriage Act doesn't suit all Australian couples. We are all permutations and computations. You can't just legislate what human sexuality is going to be. It doesn't work that way. People are not binary. We live in all sorts of presentations and lifestyles, what it comes down to is equal rights before the law for everybody. It is a pretty simple concept. One that everybody in the country espouses, to coin a phrase, and it really should be honoured, rather than just paid lip service to," Ms Abrams said.

In Western Australia, the Western Australia Gender Project (W.A.G.P.) welcomed the decision. Spokesman Aram Hosie said, "It is hoped that this ruling can help form a precedent so that other married trans\* people are able to obtain correct documentation without having to apply for divorce first. In respect to Western Australia in particular, it would be good if the Gender Reassignment Act (2000) could be amended so that a trans\* person is able to legally change their sex without the requirement for divorce first that currently exists."

Foreign Affairs Minister Downer told OUTinPerth that the Government accepts the A.A.T. decision and will not be appealing it.

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The Gender Centre is committed to developing and providing services and activities, which enhance the ability of people with gender issues to make informed choices. We offer a wide range of services to people with gender issues, their partners, family members and friends in New South Wales. We are an accommodation service and also act as an education, support, training and referral resource centre to other organisations and service providers. The Gender Centre is committed to educating the public and service providers about the needs of people with gender issues. We specifically aim to provide a high quality service, which acknowledges human rights and ensures respect and confidentiality.