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Australian Passport Office Apologises to Stefanie Imbruglia

And Agrees to Issue Appropriate Passports to Sex and Gender Diverse People

Courtesy [S.A.G.E. Australia](#) 

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Stefanie also filed a complaint that D.F.A.T. had been guilty of sex discrimination under the Sex Discrimination Act 1984.

The Department of Foreign Affairs and Trade (D.F.A.T.) has agreed to issue appropriate passports to sex and gender diverse people and change offensive terminology in its training material, to be more inclusive of diversity.

D.F.A.T. had knowingly placed Stefanie in danger by refusing her a passport that reflected her identity.

In July 2007 Stefanie Imbruglia, a forty-two year-old transsexual woman, applied to the Australian Passport Office (run by D.F.A.T.) to obtain a female passport in order to travel to Thailand for legal gender reassignment or affirmation surgery. She had been registered at birth as male but she had been living as a female for two years. To her amazement she was told that she would only be allowed to travel on a male passport despite having letters from her medical specialists confirming that she had been undergoing treatment for sex and gender dysphoria.

For twenty years the Australian government had issued one-year limited passports to people who were going abroad for affirmation surgery. Under the Howard government the Minister for Trade and Foreign Affairs rescinded that right in 2007 without consulting specialists in the field, service providers or any members of the sex and gender diverse community. Had Stefanie applied for a female passport a few days earlier there would have been no problem. She had, in fact, inquired by telephone a week earlier and had been told there would be no problem.

It is dangerous for transsexual women to travel abroad on male passports, and vice versa, as they can be subjected to searches, intimidation, arrest, violence and embarrassment.

Twenty years ago there was the case of an Australian transwoman named Estelle Asmodelle, who was arrested in Singapore after she had been forced to travel on a male passport. It was this case that forced the Australian passport office to start issuing limited one-year passports to transwomen travelling overseas for surgery. It also commenced the practice of issuing passports in the new gender for those who were post-operative and single.

Stefanie, standing in the passport office, was extremely upset and afraid as a very rude passport officer kept calling her 'Sir' even though she was wearing a skirt and jacket and presenting as female.

When Stefanie arrived in Thailand she was stopped by a passport control officer in front of the other passengers and called to account for the discrepancy between her female appearance and male passport. This was highly embarrassing for her and forced her to disclose her medical history in public and against her will. What she had warned the Australian D.F.A.T. might happen, did happen.

On her return to Australia after surgery, Stefanie, as a member of S.A.G.E. (Sex and Gender Education, a lobbying group for sex and gender diverse people) decided to bring an action against D.F.A.T. through the Australian Human Rights and Equal Opportunity Commission (H.R.E.O.C.), now the Australian Human Rights Commission (A.H.R.C.).

The case asserted that D.F.A.T. had knowingly placed Stefanie in danger by refusing her a passport that reflected her identity. D.F.A.T. was in breach of Article 12 of the International Covenant of Civil and Political Rights (I.C.C.P.R.) under the Australian Human Rights Commission Act 1986. The United Nations' Convention on Human Rights requires countries to issue citizens with documents for safe travel in and out of their countries.

Stefanie also filed a complaint that D.F.A.T. had been guilty of sex discrimination under the Sex Discrimination Act 1984. Since it had issued her with a female passport on her return from Thailand but had refused her one before she went, it had discriminated against her because she presented as the same person on both occasions. The complaint also encompassed the way she had been mistreated by the passport officer. Genitals do not define a person's sex or gender. Approximately one in a hundred children are born with some form of sex or gender diversity.

Over the following two years the A.H.R.C. sought conciliation between the parties. In the interim the A.H.R.C. had published its 2008

project that looked into the human rights difficulties faced by people who were sex and gender diverse and concluded that many government departments needed to adopt a more positive and accommodating attitude to all sex and gender diverse people. For far too long this group has been excluded from fully taking part in society as bureaucracy has failed to keep up with scientific progress and human rights. In mid 2009 conciliation between the parties was finally reached.

D.F.A.T. agreed to:

1. a complete unreserved written apology to Stefanie for the way she had been treated;
2. the restoration of the right for people going abroad for sex realignment surgery to be given a passport in their appropriate sex and/or gender;
3. the recognition that some people who are intersex, transsexed, transsexual, transgendered or any of the other sex and gender diverse identities may not be candidates for genital surgery. They may, however, live in their preferred sex and/or gender roles;
4. that such people upon presentation of a letter from a medical professional would be able to obtain a permanent passport in the appropriate sex and/or gender. Not all people are able to change their birth certificates or cardinal documents to reflect their identity. Each case would be considered on a case by case basis;
5. that the phrase 'medical professional' would be interpreted as meaning a general practitioner, gynaecologist, endocrinologist, urologist, psychiatrist, psychotherapist, counsellor, sexologist or social worker; in accordance with international standards of care for helping sex and gender diverse people;
6. an alteration to D.F.A.T.s training material for employees that lumped all sex and gender diverse people under the umbrella term 'transgender', which is offensive to many sex and gender diverse people. They were to change their terminology to address sex and gender diverse people's needs and allow those people to identify as they needed under the Sex and Gender Diverse label without discrimination;
7. the removal of an offensive training handout to D.F.A.T. employees that gave wrong and misleading information about sex, gender and sexually diverse people; and
8. that people presenting with no sex or gender on their cardinal documents may be considered for a passport that does not state sex or gender. This clears the way for parents of intersex children who do not want to be forced into registering their children as male or female when that child may be neither or both. Some adults identify as neuter and wish their documents to reflect that status.

Stefanie wishes to thank A.H.R.C. for its part in brokering the conciliation, D.F.A.T. for adjusting its position to afford equal human rights and appropriate passports to all sex and gender diverse people, and to S.A.G.E. for its assistance in bringing the case before A.H.R.C., and Dr. Tracie O'Keefe for her assistance in helping Stefanie bring the case.

Getting a Passport Made Easier for Sex and Gender Diverse People

On 11th September 2011, the then Foreign Minister Kevin Rudd and the then Attorney-General Robert McClelland announced new guidelines to make it easier for sex and gender diverse people to get a passport in their preferred gender.

Under the guidelines, sex reassignment surgery will no longer be a prerequisite to issue a passport in a person's preferred gender. "Sex and gender diverse people now have the option of presenting a statement from a medical practitioner supporting their preferred gender", said Mr Rudd. "This amendment makes life easier and significantly reduces the administrative burden for sex and gender diverse people who want a passport that reflects their gender and physical appearance".

The initiative is in line with the Australian Government's commitment to remove discrimination on the grounds of gender identity and sexual orientation. "Most people take for granted the ability to travel freely and without fear of discrimination", Mr McClelland said. "This measure will extend the same freedoms to sex and gender diverse Australians. While it's expected this change will only affect a handful of Australians, it's an important step in removing discrimination for sex and gender diverse people. Importantly, this policy addresses a number of the recommendations contained in the Australian Human Rights Commissions' *Sex Files* report".

The Hon. Kevin Rudd M.P., Minister for Foreign Affairs
The Hon. Robert McClelland M.P., Attorney-General
Canberra - Wednesday 14th September 2011

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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.

