

How to change your name and gender under New Zealand law

By Kate Scarlet and Rosie Jimson-Healey
Community Law Wellington and Hutt Valley
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It's common to encounter difficulties when trying to change your gender, title and pronouns on documents, and with places such as banks and schools. It's important to know that in many situations you have the right to change these things, and you always have the right to be respected during the process.

Legal Recognition is Important

Having your gender, name, pronouns and title correct on your documents and in records is necessary for everyday interactions with a variety of people and organisations, in order to protect you from harassment, discrimination and to properly recognise your gender.

Under international human rights law, transgender people have the right to legal recognition.

While New Zealand law does not yet allow everyone to have their gender identity recognised on official documents, for example intersex and genderqueer identities are not fully provided for, you do have some rights to have your gender identity recognised when changing your gender to male or female.

How do I change my name?

You can change your name by filling out a change of name form, getting your signature witnessed by the right person, and paying a fee to the DIA. Your gender is not relevant and the form does not ask for your gender.

You can get the form and more information from the [Department of Internal Affairs website](#) or by ringing 0800 22 52 52.

The form includes a statutory declaration, this means you need to sign the form in front of a lawyer, court registrar, or Justice of the Peace (JP). The Department of Internal Affairs will charge you a fee to change your name but your name change will be registered on your birth certificate. Your previous names will also be listed on your birth certificate until you can change your gender as well.

If your birth was registered in New Zealand you will not need any supporting documents in order to change your name. If your birth is registered outside New Zealand you will need to check the DIA website for a list of supporting documents that may be required.

The Department of Internal Affairs has a policy of respecting all people, if you feel a staff member from the department has breached this policy or breached your privacy you should get their name and make a complaint, first to the DIA and then to the Human Rights Commission or Privacy Commission if the DIA does not address your complaint satisfactorily.

How do I change my gender in the records of public organisations like banks?

Public organisations, such as banks or schools, may have their own processes but are still bound by general law. The first step to correcting an organisation's records is to ask for the correction, but it can be useful to know your rights first.

Human Rights Act 1993

You have the right to be free from discrimination, including discrimination because of your transgender or gender variant status. This probably includes making you provide more proof of gender than a cisgender people, but as far as we can tell this has not been tested in New Zealand.

Privacy Act 1993

You have the right to correct information held by any organisation, this includes correcting information regarding your gender. This right comes from Principle 7, section 6 of the Privacy Act 1993. You may need to provide evidence that this information is correct though this will not always be necessary – this will usually be in the form of other types of ID. This can make it difficult to correct your gender details if you don't have an ID with correct identity details – however with the changes to the passport process this should make getting a passport of your corrected gender details much easier than it previously was.

If the organisation refuses to correct the information they should still attach your version of the information to your file. If you have requested a correction to your information you have the right to be informed if the information was corrected or if your version of facts has been attached.

If an organisation is refusing to change your details you can take further legal action (see below) however this may take some time and in the mean time you may be able to request your mail is delivered via email rather than by the postal service to protect your own safety.

How do I change my gender on official documents?

Government agencies are generally bound by the same laws that regular organisations are, unless there is superior legislation governing their activity.

Passport

From late November 2012 you can change your gender on your passport by simply applying for a new passport and providing a statutory declaration. You can apply to have M, F or X on your passport. You can download the application from www.passports.govt.nz. This is a similar standard for cis-gender people who need to explain additional elements about their passport applications e.g. wearing a head covering in a photo.

Drivers Licence

Similar to the process for passports the NZTA recently changed their policy so that you can change your gender in their database using a simple statutory declaration. You can do this through the NZTA call centre – 0800 822 422.

Birth Certificate

In order to change your gender on your birth certificate you will need to apply through the family court under section 28 of the Births, Deaths, Marriages, and Relationship Registration Act 1995. In order to do this you will need to show both that you wish to live in your nominated gender and that you have undergone medical treatment to achieve this. This process is set out in law so an application to the family court is unavoidable if you wish to change your gender on your birth certificate. This can be a complicated process and you may need a lawyer. For more information on whether your case will need a lawyer see your local community law centre.

Once you have your gender changed on your birth certificate any time you request you a birth certificate it will show your correct gender and chosen name – it will not list your birth sex or birth name.

Requiring a higher standard

Some organisations justify requiring a higher standard of proof for transgender people by saying it protects against fraud. However improving technology (e.g. facial recognition software) and the use of unique identifiers (such as your IRD number) means that in most cases there is no need to request gender as other forms of identification are much more accurate. As such some organisations, for example the Department of Internal Affairs and NZTA, are stream lining their processes to make it easier to recognise your nominated gender. Organisations that are requiring a higher standard of proof for transgender individuals compared to cisgender people may be breaking the law. If you experience such discrimination you should contact one of the organisations below.

Cost

There are costs associated with some of the processes discussed above. Not everyone is able to afford these fees immediately. In some instances Work and Income might be able to help you meet these costs, though it will depend on your individual circumstances. If Work and Income is unable to help it may be a good idea to contact your local budget advisory service or Citizen's Advice Bureau for more ideas about how to raise funds for these fees.

Talking to the Human Rights Commission, Privacy Commission or a community lawyer are also free services.

What do I do if the organisation won't correct my information when I ask?

If you have asked for the organisation to correct your information, and provided a reasonable level of evidence of your correct gender, title and name, then that organisation may be breaching the Human Rights Act and the Privacy Act.

The first step is to attempt to resolve the issue with the organisation yourself but if that fails or you are unable to do this then you can:

1) Make a complaint to the Human Rights Commission

This is a straight forward process designed to be simple and easy to use. You can fill out an online complaint form available on their website www.hrc.co.nz or ring 0800 496 877. The

commission can offer initial advice on ways to resolve the issue which may include advice on making a complaint. If the commission accepts the complaint they will provide a space for discussing the issues in a fair, open and constructive way. This may be done by mediation which can be carried out in different ways from face to face to telephone or written mediations. All mediations are informal – no judge or jury will be present but a mediator will help ensure the mediation runs smoothly. A mediation can be stressful but you are allowed to take a support person with you. For more information see the HRC [website](#).

If you do not agree with the outcome of the mediation you do not have to agree and you can take your complaint further to the Human Rights Tribunal.

2) Make a complaint to the Privacy Commissioner

You can do this either by filling in a copy of their complaints form or writing a letter. For more information you can see their website www.privacy.org.nz or ringing 0800 803 909. Similar to the Human Rights Commission the Privacy Commissioner will first attempt to settle the complaint through mediation but if this fails the Commissioner may choose to launch an investigation.

3) Speak to a lawyer

You can speak to a lawyer for free at your local community law centre. You can find your nearest community law centre at www.communitylaw.org.nz. You can also search for lawyers on the law society website at www.lawsociety.org.nz but you will need to pay to see these lawyers.

Where can I find someone to witness a statutory declaration?

You can go to your [local court](#) for a registrar, check with your [CAB](#) or [online](#) for a Justice of the peace or you can find a local lawyer via the [law society](#) or at your local [community law centre](#).

What if I am not treated well?

Whether an organisation changes the record of your gender or not, they should always treat you with respect. If you feel that you have not been treated properly, check out the organisation's own complaints process and consider laying a complaint. You can also complain to the [Human Rights Commission](#).

If you have a good news story, consider sharing that too. You can give other people the courage to deal with the red tape, and you can encourage other organisations to respond well.