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Gender Identity Research & Education Society

Lived Experience: Understanding and Addressing the Challenges Transgender Employees Face in the Workplace

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Content

- Insights into **policies and initiatives** employers can implement to support gender diverse staff and prevent discrimination.
- **Training staff** to use inclusive language and how to have respectful conversations with trans or non-binary employees.
- Sharing key considerations for organisations: **trans healthcare** schemes for employees and unisex **facilities**.

Policy and Practices in the Workplace

Importance of understanding the impact they may have on trans people

- Companies are **not** permitted to discriminate in employment on grounds of gender reassignment.
- Everyone is required to provide protection from direct and indirect discrimination on grounds of gender reassignment in the provision of goods, facilities, services or premises.
- This support should be extended also to all other gender diverse people, i.e. those who are not intending to undergo, are not undergoing or have not undergone gender reassignment under medical supervision.

Legal Protections



- Protected Characteristic of 'Gender Reassignment' under the Equality Act 2010.
- Privacy protected under the Data Protection Act 2018 (DPA), the General Data Protection Regulations 2018 (GDPR), and the Human Rights Act 1998 (HRA, public sector).
- Gender Recognition Act 2004.
- The Human Rights Act 1998 (HRA) underpins all equality legislation.

Sample Code of Conduct

Our organisation is proud of its equality and diversity policy and its commitment to fairness and respect towards its employees and service users.

We treat everyone with respect and have particular regard for the 'protected characteristics' under the Equality Act 2010: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation.

We have a zero tolerance policy towards discriminatory language or actions that could create a hostile environment.

We do not accept behaviour that amounts to harassment or exclusion of any individual.



Policy and Practices in the Workplace

Review all policies to ensure that there is no direct and indirect discrimination including:

- Flexible working policy
- Absence policy:
 - Absence from work to attend appointments can not be counted towards sickness absence data.
- Bullying and harassment policy
- Confidentiality and Data Protection policy:
 - Recording details of a persons former name; and
 - Ensuring only people who need to know for a legitimate reason have access to someone's records.
- Pension provision



Recruitment



Positive action ✓

Not positive discrimination ✗

Currently Trans people are under-represented in your workplace

- You and your colleague have interviewed the two candidates who have been short-listed for a post.
- The two young men are equally qualified to undertake the job specification as advertised.
- One of them discloses that he has a trans history (assigned female at birth)
- Does this impact on your choice?

Transition in the Workplace

A staff member previously named Tom confides in you that she is trans and plans to live as Anna. Your first response....?

- You should be up-beat: “congratulations, this is great news.
- I’m so pleased that you told me. How can I help?”
- **Don’t** act surprised or shocked.
- **Don’t** ask if they have really thought this through. “Are you sure?”
- **Listen.**
- **Don’t** ask medical questions, for instance ‘are you on hormones, have you had ‘the surgery’?’
- You may ask gently, if Anna has support, at home, &/or within the LGBT+ community.
- Offer to support her through the process of disclosing to her colleagues, manager, HR etc:
- Does Tom wish you to use the name Anna now, or does she wish to wait? Pronouns?
- Your enthusiastic support will help Anna’s mental health going forward.



Memorandum of Understanding (Mou)

Flexible agreement led by trans person working with HR and Manager

- Practical issues (flexible, personalised, reviewed);
- Informing staff: who will be told, by whom, when, how?
- Change of names on documents:
 - Paper documents that cannot be changed must be concealed in double envelopes; access limited;
 - IT documents must be password protected in line with Data Protection Regulations; and
 - ‘Unenrolled Deed Poll’ sufficient.



Staff facilities

Changing facilities and toilets

- Trans people should be allowed to use the facilities appropriate to their gender presentation.
- Gender Recognition Certificate (GRC) is irrelevant.
- Ensure that all facilities offer privacy.
- Trans people cannot be forced to use accessible toilets.
- Provide unisex options for both staff and members of the public.
- If anyone is not comfortable sharing the facilities, it is them and not the trans person who should be asked to use the unisex options.



Health Schemes in the Workplace

- Opportunity to be referred to Occupational Health (OH) for advice
- Ongoing Risk Assessments for trans employees, where the job is physically demanding
- Temporary adjustments e.g. after surgery.
- Mental health support/counselling.
- Time off for medical treatment.
- Flexibility should be allowed for individuals to undergo treatment, especially for those being treated in the NHS, where waiting times are very long.
- Consider introducing health insurance schemes for gender specific treatments, because during these waiting times, trans people who are, meanwhile, untreated, will not be able to perform as well as they otherwise could.

Awareness Training - Celebrating Diversity

- Appoint LGBT+ champion at senior manager level, who has responsibility for equality and diversity issues.
- Third sector, professional trainers, local trans groups, may also be involved and consider e-learning modules.
- The role of champion, will always appear on the website so that gender diverse staff has a point for obtaining advice and support.
- Events that celebrate diversity should be funded by the employer and attended by senior management.



Staff Training

Interact respectfully and sensitively with trans colleagues, customers or clients

- Training should be at regular intervals, on all levels
- Terminology – keeps changing
- Unacceptable language
- let people choose their own labels
- Respect people's pronouns (he/him; she/her; they/them etc)
- Include pronouns in name badges, Email signatures etc
- Title menu to include 'Mx'
- On the phone – incoming calls.

Staff training

Respect

Trans women and trans feminine people may sound masculine when using the phone.

They are often misgendered.

“I told you my name is Emily.
Why are you calling me ‘sir’?”
“You sound like a man!”



Be aware that the voice may not match the gender. Don't make assumptions. Listen carefully to the name. Stop using 'sir', 'madam'. Ask 'How would you like to be addressed?' or similar.

Intersectionality

There can be conflict between the different areas of people's lives

People may be struggling with different cultural norms and acceptance



Individuals can belong to more than one group

The important thing to remember is that each aspect of a person's identity should always be acknowledged, respected, and celebrate the differences..

<https://www.gires.org.uk/inclusivity-supporting-bame-trans-people/>

<https://www.gires.org.uk/a-road-map-to-inclusion-supporting-trans-people-of-faith/>



Summary: Employer's Responsibilities

- Reviewing all policies and protocols; avoiding 'indirect discrimination'.
- Providing a policy for the transition at work, and the employment, of trans staff, Memorandum of Understanding.
- Positive Action to recruit from underrepresented groups.
- Code of Conduct.
- Training for staff about how to interact respectfully with trans people.
- Running celebratory/commemorative events to support trans staff (eg TDoV; TDoR; non-binary day of visibility etc).

Workplace Awareness

- Ensure the company does not discriminate against trans people.
- Do not allow harassment of trans people or create a hostile environment.
- Do not victimise a trans person who has complained about a transphobic incident.
- If a person takes time off for treatment associated with gender reassignment, this must not be used against them, for instance, as a reason for not promoting them.
- Maintain the privacy and dignity of trans people.
- Ensure that measures are in place to support a person who is undergoing transition.

GIRES Resources

E-Learning: Further training available online
www.gires.org.uk/e-learning/

Resources: Information and leaflets
www.gires.org.uk/resources/

Template Transgender Policy Guide for Employers
www.gires.org.uk/transgender-policy-guide-for-employers-2019/

TranzWiki: Support groups in the UK
<https://www.gires.org.uk/tranzwiki/>





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