

GUIDELINES FOR GENDER AFFIRMATION IN THE ACT PUBLIC SERVICE

INTRODUCTION

1. Gender affirmation is a process undertaken by someone to live in alignment with their gender identity. This may impact:
 - social aspects of their life such as the way they dress, their hairstyle;
 - the pronouns and name they use to refer to themselves or would like people to use when referring to them;
 - legal aspects of their life such as their name or sex marker on documents; and
 - medical aspects of their life such as hormonal or surgical procedures.
2. Gender affirmation can be a significant experience which may affect multiple aspects of an individual's life, including their workplace. However, when thinking about gender affirmation it is also important to understand that what steps someone chooses to make is individual to them. There is no right or wrong way to affirm one's gender, and you may already know people who have taken steps to affirm their gender in the past, or who might at some point in future, or who are gender diverse but who have no desire to be out in the workplace.

PURPOSE

3. These guidelines have been developed to promote an improved understanding of gender diversity and assist directorates, managers and employees to support positive workplace transitions by outlining relevant roles and responsibilities and taking into account relevant legislation. They align with the ACT Public Service (ACTPS) Respect, Equity and Diversity (RED) Framework, which supports diversity and inclusion and the creation of workplaces where employees feel safe, valued and comfortable to be themselves at work, regardless of their gender identity or any other aspect of diversity.
4. It is important to remember that sometimes the only support required is to simply support employees to be themselves in the workplace and be open about their identity without necessarily undertaking any other steps. As such, although these guidelines focus upon workplace gender affirmation, the principles discussed apply to any employee who may be gender diverse. They are intended to be flexible and adjusted to suit individual circumstances where possible.

RESPONSIBILITIES

5. All ACTPS staff are responsible for upholding the ACTPS Values and the principles of RED to support a positive gender affirmation experience for employees. This includes:
 - treating transgender, gender diverse and non-binary employees with respect and maintaining an open-minded attitude;
 - being willing to ask respectful questions when unsure of something;
 - participating in related training or education; and
 - listening to, and understanding, the employee's needs and concerns and maintaining honest communication to build trust and support a positive and successful workplace transition.
6. The responsibilities of managers supporting a transgender, gender diverse or non-binary employee are outlined on page 3 of this guideline.

7. Staff supporting an employee to affirm their gender in the workplace are responsible for maintaining appropriate levels of confidentiality and privacy. Information should only be disclosed where the consent of the employee has been obtained, and only to those who need to know or are directly involved in the process.
8. The employee affirming their gender is responsible for working with managers and relevant networks to establish and communicate clear expectations.

AFFIRMATION PLANS

9. Employees preparing to affirm their gender may benefit from developing a plan, which outlines the timeline and key action items to be achieved in order to transition in the workplace. They can also seek help to develop this plan from a supporting team, which can include:
 - their manager or supervisor;
 - the employee's support person (if any);
 - a member of the directorate's HR team;
 - the ACTPS Relationship Manager from Pride in Diversity, an organisation that assists employers with developing lesbian, gay, bisexual, transgender and intersex (LGBTI) inclusive work practices; and/or
 - a staff member from the Workforce Capability and Governance Division (WCAGD) in the Chief Minister, Treasury and Economic Development Directorate (CMTEDD).
10. Employees who are affirming their gender in the workplace may want to consider the following when developing their plan:
 - whether the employee would like a support person present in discussions and/or
 - meetings relating to their gender affirmation and who that person might be;
 - the employee's preferred time frame, key milestones, the communication and possible education requirements that are relevant to them in their particular workplace;
 - whether the employee would like to take a period of leave prior to coming out openly in the workplace;
 - how and when the employee would like to communicate their gender affirmation to their business unit, key clients and stakeholders and who (if anyone) they would like to be part of these conversations;
 - how involved the employee would like to be in any communication and education processes that occur amongst their team/stakeholders;
 - what information the employee wants to share, with whom, and how they want to share it (e.g. a letter, face-to-face individually or at a team meeting, through their manager explaining or them directly talking to their team, an email/letter to wider networks and stakeholders, etc); and
 - how the employee and fellow staff might respond to questions that are asked of them by their colleagues (note: no one should ever feel obligated to answer questions they are not comfortable with).

MANAGERS OF AFFIRMING EMPLOYEES

11. When an employee approaches their manager with their intention to affirm their gender, it is important for the manager to be supportive, open-minded and honest. Managers should be prepared to discuss the employee's aims and expectations and confirm what they want the manager's role to be. Managers should consider stakeholders, colleagues, policies and procedures existing in the workplace and contact their local HR team for guidance and support as needed.
12. The responsibilities of a manager assisting an employee to affirm their gender will vary depending on the situation and the preferences of the individual. However, key responsibilities are:
 - working with the employee to understand their goals and discuss related matters, including the development of a gender affirmation plan;
 - developing a shared understanding about agreed work arrangements during the initial period of gender affirmation in the workplace;
 - protecting the privacy of the employee and maintaining confidentiality;
 - being reasonably flexible and supportive of any leave that may be required by the employee;
 - communicating honestly, openly and regularly with their team to set expectations;

- facilitating communication of relevant information to key stakeholders, with the consent of the employee;
- increasing their own level of understanding by seeking resources and education if required;
- being available to answer questions and address any concerns of colleagues through briefings, or facilitating education and awareness; and
- modelling the ACTPS Values and providing leadership to develop a positive, inclusive and respectful environment to support a successful gender affirmation in the workplace.

EDUCATION AND RESOURCES

13. A lack of knowledge or awareness regarding gender diversity may create nervousness, uncertainty or tension in workplaces. Creating a safe place for employees to ask questions and increase their awareness of the gender affirmation process can support a positive experience for both the transgender, gender diverse or non-binary employee and their colleagues.
14. Training and education relating to LGBTI and transitions is available through the ACTPS membership to Pride in Diversity. Training can be facilitated by contacting WCAGD in CMTEDD (via PSM@act.gov.au). A number of local ACT providers also have comprehensive training packages on LGBTIQ+ related education.
15. The ACTPS also has a range of LGBTIQ+ inclusion resources which employees should be made aware of: <http://www.cmd.act.gov.au/employment-framework/inclusion-programs/lgbti-inclusion>.
16. Employees affirming their gender, or anyone impacted by this in the workplace, can also access their directorate's relevant Employee Assistance Program (EAP), which provides confidential and professional counselling and related services to assist them in resolving issues that may be work related or of a personal nature.

NAMES AND PRONOUNS

17. Transgender, gender diverse and non-binary employees may wish to use a different name and pronoun (e.g. he/him, she/her, they/ them) then they previously used and can communicate this preference to their colleagues. If you are a colleague of someone who is affirming their gender and you are unsure what name or pronouns they would like to go by, politely ask them for guidance.

APPEARANCE AND DRESS

18. A transgender, gender diverse and non-binary employee may dress consistently with their gender identity and is required to comply with the same standards of dress and appearance that apply to all other people in their workplace.

LEAVE AND OTHER ENTITLEMENTS

19. Managers should provide reasonable flexibility and support if transgender, gender diverse and non-binary employees need to take some form of approved leave in relation to their gender affirmation (e.g. personal leave for medical appointments/procedures). Leave and a range of flexible work arrangements are provided in ACTPS Enterprise Agreements.

FACILITIES

20. Supporting transgender, gender diverse and non-binary employees to use toilets and facilities that are appropriate to their affirmed gender should not affect others in the workplace. Preventing any employees from using the facilities which accord to their gender identity is unlawful. It is not appropriate to require transgender people to use disabled or any other particular bathroom/changing facilities.

UPDATING RECORDS

21. Transgender, gender diverse and non-binary employees can request an update of employment records, email address, computer log-in and security card to reflect their updated details through Shared Services. Certain types of records, like those relating to payroll, may require a legal name change before the individual's name can be changed on all ACTPS records.

DISCLOSURE OF MEDICAL INFORMATION

22. It is not appropriate to ask transgender, gender diverse and non-binary employees about any medical intervention they may have had. Employees are not required to provide details of medical information regarding their gender affirmation.
23. The usual documentary evidence is required to support an application for personal leave (as per the provisions in 'Section F4 – Personal Leave' of ACTPS Enterprise Agreements).

BULLYING, HARASSMENT OR DISCRIMINATION

24. It is both unlawful and inconsistent with the ACTPS Values to treat someone less favourably because of their actual or perceived gender identity. The *intentional and/or persistent refusal* to respect an employee's gender identity (e.g. through misgendering, deadnaming or requiring an employee to use a bathroom that does not correspond to their gender identity) may constitute discrimination, bullying or harassment.
25. Any such behaviour will be responded to in a manner commensurate with the seriousness of the behaviour conducted, and in accordance with Section H (Values and Behaviours) of ACTPS Enterprise Agreements. For more information, refer to: <http://www.cmd.act.gov.au/employment-framework/inclusion-programs/lgbti-inclusion>.

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