

# GUIDELINES FOR GENDER TRANSITION IN THE ACT PUBLIC SERVICE



## INTRODUCTION

1. Gender transition is a process undertaken by someone to live in accordance 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 legal sex on documents; and
  - medical aspects of their life such as hormonal or surgical procedures.
2. Gender transition (transition) can be a significant experience which may affect multiple aspects of an individual's life, including their workplace. However, when thinking about transition it is also important to understand that transition is one period of an employee's life; you may already know people who have transitioned, or who will transition at some point in future, or who are gender diverse but who have no desire to transition.

## 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 a workplace transition. As such, although these guidelines focus upon workplace transitions, 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 transition experience for employees. This includes:
  - treating transitioning 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 transitioning 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 transitioning employee are outlined on page 3 of this guideline.
7. Staff supporting an employee to transition in the workplace are responsible for maintaining appropriate levels of confidentiality and privacy. Information should only be disclosed to those who need to know, are directly involved in the process, or where the consent of the transitioning employee has been obtained.
8. Transitioning employees are responsible for working with managers and relevant networks to establish and communicate clear expectations.

## TRANSITION PLANS

9. Employees preparing to transition will generally work in a team to develop a transition plan, which outlines the timeline and key action items to be achieved in order to transition in the workplace. This team can include:
  - their manager or supervisor;
  - the transitioning 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. The following should be considered when developing a transition plan:
- whether the transitioning employee would like a support person present in discussions and/or meetings relating to their transition and who that person might be;
  - the transitioning employee's preferred time frame, key milestones, the communication and possible education requirements that are relevant to them in their particular workplace;
  - whether the transitioning employee would like to take a period of leave before their agreed transition date;
  - how and when the transitioning employee would like to communicate their transition to their business unit, key clients and stakeholders and who (if anyone) they would like to be part of these conversations;
  - how involved the transitioning employee would like to be in any communication and education processes that occur amongst their team/ stakeholders;
  - what information the transitioning employee is willing to share and with whom, and how they are willing 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 transitioning employee will respond to respectful questions that are asked of them by their colleagues (note: no one should ever feel obligated to answer questions they are not comfortable with).
11. The above can be adjusted to suit the needs of the individual transitioning where both necessary and reasonable.

## MANAGERS OF TRANSITIONING EMPLOYEES

12. When an employee approaches their manager with their intention to transition, 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.
13. The responsibilities of a manager assisting a transitioning employee will vary dependant on the situation and the preferences of the individual. However, they could include:
- working with the transitioning employee to understand their goals and discuss related matters, including the development of a transition plan;
  - developing a shared understanding about agreed work arrangements during the workplace transition period;
  - protecting the privacy of the transitioning employee and maintaining confidentiality;
  - being reasonably flexible and supportive of any leave that may be required by the transitioning employee;
  - communicating honestly, openly and regularly with the team to set expectations;
  - facilitating communication of relevant information to key stakeholders;
  - 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 transition.
14. 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 transition process can support a positive transition experience.
15. Training and education relating to LGBTI and transitions is available through the ACTPS membership to Pride

## EDUCATION AND RESOURCES

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 LGBTI-related education.

16. The ACTPS also has a range of LGBTI inclusion resources which employees should be made aware of: <http://www.cmd.act.gov.au/employment-framework/inclusion-programs/lgbti-inclusion>.
17. Transitioning employees, or anyone impacted by a workplace transition, 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

18. Transitioning employees will usually select a name and pronoun (e.g. his, her, him, she, they or them) that corresponds to their gender identity, and communicate this preference to their colleagues. If you are a colleague of someone who is transitioning and you are unsure what name they would like to go by, politely ask them for guidance.

## APPEARANCE AND DRESS

19. A transgender 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

20. Managers should provide reasonable flexibility and support if a transitioning employee needs to take some form of approved leave in relation to their transition (e.g. personal leave for medical appointments/procedures). Leave and a range of flexible work arrangements are provided in ACTPS Enterprise Agreements.

## FACILITIES

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

22. Developing a workplace transition plan should include a strategy for informing other staff about the use of toilets and other facilities, including a date when the employee will begin using them. Staff should be given an opportunity to raise and discuss any concerns, which in most cases should be resolved through discussion, education and awareness.

## UPDATING RECORDS

23. Transitioning employees can request an update of employment records, email address, computer log-in and security card to reflect their re-assigned gender 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.
24. Transitioning employees may also need to submit a new Tax File Number Declaration Form, update bank accounts, inform their superannuation and/or insurance provider(s) of their name and gender change, and so on.

## DISCLOSURE OF MEDICAL INFORMATION

25. It is not appropriate to ask transitioning employees about any medical intervention they may have had. Employees are not required to provide details of medical information regarding their transition.
26. 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

27. All staff involved in supporting an employee to transition, and the transitioning employee themselves, should be respectful of the period shortly following the transition, where staff may make mistakes such as using the wrong pronoun or name as they adjust to the change.
28. However, a few honest mistakes will be treated very differently to deliberate and ongoing issues. 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 or persistent refusal to respect an employee's gender identity (e.g. requiring an employee to use a bathroom that does not correspond to their gender identity) may constitute discrimination, bullying or harassment.

29. 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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Commissioner for Public Administration  
on behalf of Kathy Leigh, Head of Service

21 June 2016

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