



Transgender
Equality
Network
Ireland

TRANS VISIBLE

The Recruitment of Transgender Women

GUIDELINES FOR EMPLOYERS



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Introduction

One of the key challenges facing the trans community in Ireland is access to employment. Being trans should not be a barrier to reaching your full potential. Recruitment processes are often not inclusive. Recruitment professionals may lack confidence and knowledge of how best to support trans applicants.

Our different backgrounds, experience and perspectives mean we think about issues in different ways, see new solutions and opportunities to improve. These diverse skills add value in all workplaces.

The recruitment and retention of trans employees need not be a complex process.

TENI's expertise in this area is based on our work with trans people, employers, trade unions and recruitment agencies. Based on this expertise and knowledge, this resource offers practical recommendations, advice and strategies, to ensure that recruitment practices are trans-friendly, that your organisation is attractive to trans talent and that those who carry out recruitment feel confident and empowered to support trans applicants. The aim is that no matter what the outcome, that the recruitment process itself is a positive one.

Who we are:



Our vision is a world where all people, regardless of gender identity or expression, enjoy full acceptance, equality and human rights.

Our mission is to advance the rights and equality, and improve the lives of trans people and their families.

TENI is a non-profit member-driven organisation, founded in 2006 and registered as a company limited by guarantee in February 2010. The governance is provided by a volunteer Board and operations are led by the Chief Executive and staff. Community engagement is an essential part of TENI's identity and our mandate is based on a substantial membership, which elects the Board and is involved in long-term strategic planning.

TENI supports employers to create a respectful and inclusive workplace environment for trans employees through the delivery of training and education programmes. We work with employers to help develop trans inclusive policies and promote respectful workplaces.

We believe in a person-centric approach, including the trans person in decisions about their employment and in any relevant communications. We understand that one approach may not work in every situation and that flexibility or 'out-of-the-box' thinking may be necessary. Most of all we believe in workable, practical solutions.

Helpful terms:



The words that people use to describe themselves are important. Sometimes we may feel a bit overwhelmed by terminology, but the main thing to focus on is that, like in every human interaction we have, we treat people with dignity and respect.

Here's some helpful language that may be useful.

Sex The designation of a person at birth as male or female based on their anatomy (genitalia and/or reproductive organs) or biology (chromosomes and/or hormones).

Gender Identity A person's deeply-felt identification as male, female, or some other gender. This may or may not correspond to the sex they were assigned at birth.

Gender Expression The external manifestation of a person's gender. Each of us expresses our gender every day, in many different ways – by the way we style our hair, select our clothing, even in the way we stand or speak.

Cisgender A person whose gender identity matches the sex they were assigned at birth.

Transgender (Trans) An umbrella term which refers to any person whose gender identity and/or gender expression differs from the sex assigned to them at birth. This includes non-binary identities. Avoid using this term as a noun: a person is not 'a trans'; they may be a trans person.

Non-Binary An umbrella term for gender identities that fall outside the gender binary of male or female. This includes individuals whose gender identity is neither exclusively male nor female, a combination of male and female or between or beyond genders.

Trans Woman A person who was assigned male at birth, but who is a woman. Some trans women make physical changes through hormones or surgery; others do not.

Trans Man A person who was assigned female at birth but who is a man. Some trans men make physical changes through hormones or surgery; others do not.

Transphobia The fear, dislike or hatred of people who are trans or are perceived to challenge conventional gender categories or 'norms'. Transphobia can result in individual and institutional discrimination, prejudice and violence against trans and gender variant people.



Transition A process through which some transgender people begin to outwardly live as the gender with which they identify, rather than the one assigned at birth. Transition can include social, physical and legal changes such as coming out; changing one's gender expression; changing one's name, pronoun and sex designation on legal documents; and medical intervention via hormones and/or surgeries.

Trans Employees and Irish Law:

Gender Recognition

Gender recognition legislation provides a process enabling trans people to achieve full legal recognition of their gender and allows for the acquisition of a new birth certificate that reflects this change.

The Gender Recognition Act 2015 allows all individuals over the age of 18 to self-declare their own gender identity. Young people aged 16-17 can also apply to be legally recognised, though the process is more onerous.

The Employment Equality Acts, 1998-2015 And the Equal Status Act 2000-2015

The Employment Equality Acts and the Equal Status Acts prevent the discrimination of people in the provision of:

- Employment
- Collective agreements
- Vocational training
- Advertising
- Goods and services – including health, accommodation and education

Discrimination is banned based on nine grounds. They are: gender, marital status, family status, age, race, sexual orientation, disability, membership of the Traveller community and religion. Trans people are not explicitly protected in this legislation. However, in 2011, a trans woman named Louise Hannon successfully took a case to the Equality Tribunal - Hannon v First Direct Logistics Ltd [DEC S2011-066]. Hannon was constructively dismissed from her workplace when she revealed her gender identity and began transitioning. The decision of the Equality Tribunal in this case was historic, because it represented the first time that the Employment Equality Acts were used to provide protection for trans individuals. This protection relies on an interpretation of the gender ground, because at present the gender ground does not explicitly include trans identities.

Public Sector Duty

The Public Sector Duty was introduced under the Irish Human Rights and Equality Commission Act 2014. It places an obligation on Public Sector bodies, in the performance of its functions, to have regard to the need to eliminate discrimination, promote equality of opportunity and treatment of staff.

Disclosure:

A trans person may come out/disclose their trans status at any point during a recruitment process. Coming out to a prospective employer is a very personal decision, and can be a source of anxiety for some people.

There is no one set way for a person to transition. Trans people are looking for employment at different stages of transition, and the supports they may need throughout a recruitment process are equally varied. Some people may have previously transitioned, some may be transitioning currently, and some people may disclose an intention to transition in the near future.

It is important to remember that when a trans person comes out to you, they are trusting you with that information but they have not chosen to come out to everyone in the organisation/company and it is their choice if they would like to and how. It is best practice to ensure that sensitive personal information is kept confidential. If it is necessary to share information about someone's trans identity with another staff member, that person must be informed.

Make sure that any discussion of this disclosure is relevant to their recruitment. So, for example, if a trans person comes out during an interview, don't ask them what their childhood was like. On the other hand, if a candidate has practical concerns (identifying documents, uniforms, bathrooms, etc.), this is an important conversation to have! If someone discloses that they are trans during the recruitment process, it is okay to check in with the person in an appropriate manner to ensure they are doing well and to ask if they will require any support.

During the recruitment process, you may learn indirectly that a candidate is transgender. For example, someone may have different details in the revenue system. As with a direct disclosure, make sure any discussion you have is relevant to the situation.

Screening Process:

Advertising

Clearly state that your organisation is an inclusive employer and welcomes applicants from all sectors of the community.

Ensure job descriptions do not include gendered language. For example, instead of saying 'he/she will be responsible for...' say 'they will be responsible for...' or 'the successful candidate will be responsible for...'.

Consider the networks that you use to advertise positions. LGBTI+ groups both inside and outside of your organisation are a great way to get some word-of-mouth going about new positions.

Research into Employer

Trans people often research a prospective workplace during the early stages of a recruitment process, not just to prepare for an interview, but also to get a sense of how trans inclusive it is likely to be.

It's a good idea to make sure any trans or diversity policies are publicly promoted and visible on websites or other media platforms. Policies on dignity and respect should be accessible and specifically name gender identity.

If you have an LGBTI+ Staff Network, encourage them to share what they are doing.

Contact

When contacting candidates, avoid using gendered language such as 'Dear Sir/Madam'.

Some trans people may be very self-conscious about how their voice sounds. Just as you can't tell someone's gender by looking at them, you can't tell someone's gender by the sound of their voice. Just something to be mindful of if you have to phone a candidate.

Interview:

Candidates may not wish to disclose their trans identity at interview and it is not a question that should be asked, any more than questions about race or religion should be asked. It is best not to assume someone's gender identity simply by their appearance. If someone discloses they are trans at an interview, thank the candidate for their openness and remain focused on the purpose of the interview, i.e. determining if this person has the right skills and experience for the role.

A common misconception is that transgender people will need additional special time off work for medical interventions. This is not true! Gender affirming healthcare should be covered under your existing sick leave policy.

Don't ask a trans person questions about their body, previous name, or anything else you would deem inappropriate to ask another candidate.

Background Checks:

Most jobs require background checks and certain jobs require additional security vetting. This should be disclosed to candidates at an early stage of the process with signposts to further information. Interviewers should be sensitive to an individual's feelings about any references, education records or C.V. details that may not reflect the applicant's gender identity.

Documentation

Offers of employment involve identity and documentation checks. Sometimes, the names and gender markers on a trans person's documentation (such as passport, driver's licence, utility bills, birth certificate or academic transcript) do not match.

References

Previous employers may be unaware a person has transitioned and may use the incorrect name and/or pronoun for them. If a trans person says this may be the case, it is best to ask them sensitively how they would like you to proceed when you are speaking to their referee. If an applicant is providing a written reference and it has a different name and pronoun, they may disclose they are trans ahead of this. Be sure to treat the information sensitively.

Confidentiality

For some trans people, sharing information of their previous name and gender can be difficult, so when that information is needed, it should be requested in a sensitive way and stored and treated in a secure manner. Trans people may be anxious about who has access to that information and in some cases, who will know they are trans as a result. It is important to let the candidate know who will have access to the information and that the trans person is not outed without giving their consent. Only information needed should be stored, data held securely and there should be no informal sharing of this information.

Onboarding:

You may need to ask candidates for identifying documents in order to set them up on internal systems, payroll, etc. Some sensitive conversations may be needed.

You may be obliged to maintain records that include an individual's legal name and legal gender. However, to the extent that you are not legally required to use an individual's legal name and gender on records or documents, it is best practice to use the name and gender preferred by the individual.

In situations where you are required by law to use someone's legal name or gender, such as for pension purposes, you should adopt practices to avoid the inadvertent disclosure of such confidential information.

Consider the different systems that an employee needs to be added to, e.g email, internal information platforms, ID cards, rosters, etc. and ensure that names and gender markers are uniform across your organisation.

It's good practice to make new employees aware of employee resource groups, including any LGBTI+ groups.

Facilities

A person should be able to use the facility that matches their gender identity. Having gender neutral facilities, if possible, is good practice. Consider your organisation's bathroom signage and whether it is as inclusive as possible.

Contact person/HR

A HR representative or other relevant person who is trained in trans awareness and sensitivity can act as a point of contact to a trans person during recruitment. Ideally all staff who might support a trans person should have this training. A contact person can help to resolve any issues around documentation, accommodations, etc. This is beneficial for both the organisation and individual. Again, not all trans employees will need this kind of support; be guided by the candidate!

Communication

During induction, make reference to relevant policies (such as dignity at work).

In some circumstances, a new trans employee may feel more comfortable if some communication or training takes place prior to or shortly after they start work. It is vital that any communication plan is informed by the trans person themselves.

Encourage the trans person to think about what options might work best for them. This could be in person, over internal email, etc. with or without their personal involvement. Communication should reflect your workplace's attitude of inclusion and respect. You may want to include practical details (name, pronouns) and some basic guidelines on how to support colleagues, and deal with questions which may arise.

Again, this may not be necessary in all instances and it is crucial to avoid 'othering' any trans employee. Be guided by the individual!

Trans-proof your workplace!

Policy

Make sure existing policies name 'gender identity, gender expression and/or a difference in sex characteristics' where relevant.

Have or develop a policy and guidelines for use by managers, employees and HR on how best to provide a workplace environment that is both supportive and welcoming for trans employees.

Training

Provide training to create greater awareness and understanding of gender identity and expression in the workplace.

Forms

A question we are often asked is how to ask someone's gender on a form in an inclusive way.

If possible, allow people to self-identify their gender: **Gender:** _____

We understand that this is not always practicable. If not, then we recommend using:

Male Female Non-Binary/Other (allow self declaration) **Prefer Not to Say**

Do not use 'transgender' as a gender option! Most people are male, female and non-binary, so will use those options. Using a 'transgender' option implies that trans people's identities are less valid than cis people's, and doesn't allow space for non-binary people to state their gender.

Email Signatures

While it may seem like a small action, having staff include their pronouns (she/her, he/him, they/them, etc.) in their email signature is a great way to help trans people feel welcome and respected.

It also shows you are a trans inclusive employer to prospective employees from first contact.

TENI is here to help! We can advise on policy, provide trans awareness training and offer support to trans employees. Please get in touch if you have questions or queries.



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