

# BUILDING TRANS-INCLUSIVE WORKPLACES

**A guide for managers,  
unions and workers**



Public Service Alliance of Canada  
Alliance de la Fonction publique du Canada



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# Introduction

In June 2017, after years of campaigning by trans activists and their allies, “gender identity” and “gender expression” finally became protected grounds under the *Canadian Human Rights Act*. The victory was significant, and followed a slew of other notable wins for LGBTQ2+ community.

Despite progress in the law, many trans and gender variant people continue to face harassment and discrimination in the workplace. Non-trans managers and colleagues are often ill-equipped to support trans employees, and workplaces frequently lack the policies and infrastructure that ensure safety for trans staff. In fact, a recent pan-Canadian survey found that LGBTQ2+ people were more likely to report experiencing discrimination and bullying in the workplace than in any other setting.<sup>1</sup>

As a union, the Public Service Alliance of Canada has worked hard to support trans workers. We have successfully bargained to include “gender identity” and/or “gender expression” in anti-discrimination clauses in 132 bargaining units. In 2012, activists at PSAC Local 610 (University of Western Ontario Graduate Teaching Assistants) won dedicated transition leave and coverage for medical costs related to transition. In 2013, our union started delivering workshops on defending trans rights to stewards and other members. More recently, at PSAC’s 2015 triennial convention, delegates overwhelmingly voted to campaign for human rights protections for trans and gender variant people. And in 2018, PSAC’s National Office in Ottawa instituted gender inclusive washrooms, with some regional offices planning to follow suit.

While we celebrate our achievements, we know that we still have work to do. The recommendations put forward in this guide are intended to help all unions, including PSAC, do more to build trans inclusive workplaces. Unions can’t do it alone, however. Trans and gender variant workers require the support of their colleagues and managers as well. Therefore, *Building Trans Inclusive Workplaces* also offers guidance for employers and employees. It is our hope that together we can create workplaces where all workers feel welcomed, safe and supported.

*This guide was initiated through a recommendation of the PSAC’s National Human Rights Committee in December 2017. It is based on guidelines published by Public Service and Procurement Canada.*

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<sup>1</sup> Jasmin Roy Foundation. (2017)  
[fondationjasminroy.com/en/initiative/lgbt-realities-survey/](http://fondationjasminroy.com/en/initiative/lgbt-realities-survey/)

# Notes and Disclaimers

## Audience

This guide is for anyone interested in building workplaces that are inclusive of trans and gender-variant people (which should be everyone!). The first three sections: what managers can do, what co-workers can do, and what unions can do, might be most useful for non-trans people. The final section, 'When an employee comes out or transitions at work' offers guidance that could be useful to everyone. If you are trans or questioning your gender identity and would like additional resources for navigating the workplace, please refer to Appendix B: Resources. If you would like to offer feedback or make suggestions for updates to this guide, please contact PSAC's Human Rights Officers. We will endeavor to keep the online version of this guide as current and progressive as possible, and we welcome your input.

## Language

Throughout this guide we have endeavored to use language that is current, respectful and accurate. Some terminology may be unfamiliar to people who are not part of the trans community. For this reason, a glossary of terms is provided in Appendix A: Glossary of Terms.

It is important to note, however, that language about gender expression and identity evolves rapidly. Therefore, some terms may have changed since the creation of this document and some terms used in this guide may no longer be up to date.

The most important thing to remember when discussing gender identity is to ask people how they prefer to be addressed and to use the words that people use for themselves. Everyone is different and words in this guide that work for some people might be inaccurate or offensive to others.

# Gender Identity Basics

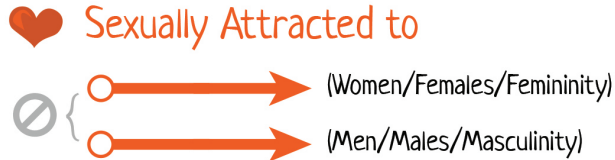
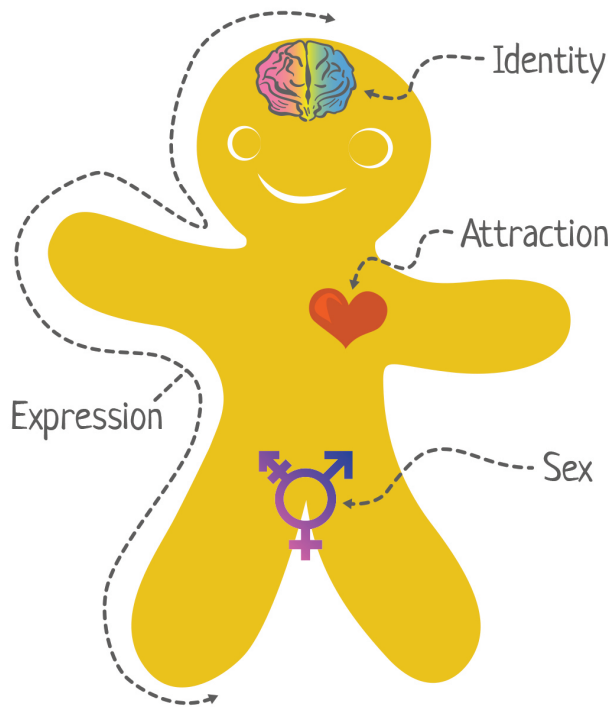
Everyone has a gender identity. Gender identity is one's internal sense of being a woman, a man, neither of these, both, or other gender(s). It is distinct from sex, which is the classification of a person as male, female, or intersex based on biological characteristics, including chromosomes, hormones, external genitalia and reproductive organs. For cisgender people (people who are not trans), their gender identity "matches" the sex they were assigned at birth. For instance, if someone was called male when he was born, and he identifies as a boy or a man, then he is cis.

For trans people, however, their sex assigned at birth and their gender identity are not necessarily the same. The term "trans" can include trans men, trans women, non-binary people, agender people and many more (see Appendix A for explanations of these terms). Some trans people opt to use hormones and undergo surgeries to better reflect who they are. Many trans people, however, choose not to have any surgeries or hormone replacement therapies. Trans people may use names and/or pronouns (she, he, they, zhe etc.) that are different from the ones that were used for them when they were born.

It is important to distinguish gender identity from gender expression. Gender expression is the aspects of a person's behaviour, mannerisms, interests, and appearance that are associated with gender in a particular cultural context, specifically with the categories of femininity or masculinity. There are both trans and cis people whose gender expressions might differ from what is "expected" of someone with their gender identity. For instance, a woman who identifies as butch might have a more masculine gender expression. She experiences discrimination or harassment based on the way her gender expression is perceived. A common example of this is when a woman dressed in clothing deemed to be masculine enters a woman's washroom and is subject to stares, comments or harassment. The discrimination she is experiencing is based on her gender expression, not necessarily her gender identity (though it could be both). To include those who do not identify as trans but whose gender expressions differ from stereotypical norms, the term "gender variant" is often used (including throughout this document). As of 2017, the *Canadian Human Rights Act* prohibits discrimination on the basis of both gender identity and gender expression.

Finally, it should be noted that both gender identity and gender expression are distinct from sexual orientation. Sexual orientation indicates the gender(s), if any, that someone might be attracted to. Like cis people, trans people may have a sexual orientation that is straight/heterosexual, gay/lesbian, bisexual/pansexual, queer, asexual, demisexual or something else.

# The Genderbread Person v3.3 by its pronounced METROsexual.com





# What managers can do

As leaders, managers have ample opportunity to build workplace culture and infrastructure that supports trans and gender variant employees. Managers can and should take pro-active measures to create trans-inclusive workplaces regardless of the perceived gender identities of current staff. Even if managers do not believe that they manage any trans or gender-variant workers, pro-active measures help ensure that the workplace is already equipped to support trans and gender variant employees when they are hired or come out at work.

This section offers six concrete measures that managers can take to make the workplace more inclusive.

## 1. Ensure dress codes/uniforms are flexible and not gender-specific

Expectations around employee dress and appearance should be flexible and not gender-specific. Employees, regardless of whether they have indicated that they identify as trans or gender variant, should be able to dress in a manner consistent with their gender identity. No employee should be required to dress or present themselves in a stereotypically feminine or masculine way in order to be treated respectfully. Requiring employees to choose between “men’s” and “women’s” clothing is not appropriate.

If there are uniforms worn in the workplace, then employees should be provided with the choice of which uniform to wear, regardless of their gender.

## 2. Institute workplace training

Many people outside of the trans community still lack awareness about trans issues. Without education, non-trans staff are more likely to speak or behave in ways that are hurtful and offensive. This may pose a barrier to trans people feeling able to be out at work, or to perform their work to the best of their abilities. Furthermore, some cis staff may not understand reasons for workplace initiatives that foster trans inclusion, which might lead to a lack of support for such initiatives or even backlash.

Therefore, managers should provide training on gender and trans inclusion. This training should be developed by or with self-identified trans people. All facilitators should be paid fair wages. This training may be initiated jointly with the union.

## 3. Provide gender inclusive washrooms and don't regulate which washroom employees use

For trans and gender variant people using public washrooms can be a source of anxiety and stress because of safety concerns. People whose appearance does not conform to what is commonly expected for men or women are frequently subjected to stares, questions, comments, verbal harassment, and physical violence when they try to access washrooms.

Therefore, employers should institute at least one gender-inclusive washroom facility in every workplace. It should be accessible and not “hidden away.” Workplaces with more than 200 employees should have an additional gender inclusive washroom facility for every additional 100 employees. These should be available in different areas of the building so as not to burden trans or gender variant employees whose workspace may be located far from the washrooms.

For information on best practices for instituting gender inclusive washrooms see PSAC's *Gender-Inclusive Washrooms in your Workplace: A Guide for Employees and Managers*.

It should be noted that even with gender-inclusive washrooms, employees should be able to access and utilize facilities that they are comfortable using and that correspond to their gender identity. For example, requiring a trans or gender variant employee to use the facilities that correspond to the employee's sex assigned at birth, status of medical transition, or to "prove" their gender identity (by requiring a doctor's letter, identity documents etc.) is not appropriate. It is important to remember that the use of a gender inclusive washroom is a matter of personal choice and employees should not have to face harassment when using a gender-specific facility.

#### **4. Ensure privacy for trans staff**

Gender identity, medical history, and naming history can be personal matters for employees. Due to some hiring requirements and processes (e.g. criminal record checks), managers may be privy to information about an employee's name(s) or trans status that other staff are not aware of. Moreover, if an employee decides to come out as trans after being hired, or to undergo medical procedures, the employee may provide information regarding a name or sex designation change or may provide related health information to the employer in order to access benefits, leave etc.

This information is confidential and should be protected in the same way as other sensitive personal information the employer holds with respect to its employees. In some cases, disclosing a person's trans status can expose them to discrimination and violence. An employee's former name (dead name) or previous legal sex designation will rarely be relevant to current workplace issues. The employer must adopt practices to avoid the inadvertent disclosure of such confidential information, consistent with its practices for protecting other sensitive personal information.

In some cases, an employee may request that a manager share information with other staff about their name, identity or pronouns. For instance, if an employee comes out to a manager at work and asks that the manager informs other staff to begin referring to this employee with a different name or pronoun (see 'When an employee comes out or transitions at work'). In these cases, the manager should share the information in the manner that the employee has requested (e.g. by email, in individual meetings with select staff, verbally in a team meeting etc.). The manager should only share information that the employee has explicitly requested be shared and should only share it with those that the employee has requested it be shared with. (To plan and record the employee's requests for informing staff, they may wish to create a transition plan. See Appendix C: Transition Plan Template.)

#### **5. Provide accommodation for gender-specific work assignments and duties**

Where gender-specific work assignments or duties exist, employees should be assigned to duties and participate in ways they feel safe and comfortable and, if requested by the employee, are consistent with their gender identity.

In rare instances, there may be a need to assign work on a gender-specific basis (for example in border services with body search processes). Managers who are placing a trans or gender variant employee in a gender-specific assignment or requiring them to perform gender-

specific duties must first and foremost consider an employee's safety. If the assignment is deemed safe then the employee should be assigned duties that correspond to their gender identity regardless of their sex assigned at birth, if that is what the employee desires.

Requiring medical transition or providing "proof" of the employee's gender identity (by requiring a doctor's letter, identity documents, etc.) to be eligible for gender-specific assignments or duties is not acceptable.

Limiting gender-specific assignments or duties of trans or gender variant employees is not acceptable unless requested by the employee based on their safety/comfort or there is an identifiable safety hazard. Limiting or modifying the duties of trans or gender variant employees based on discriminatory concerns from the public or coworkers is also inappropriate.

## **6. Ensure all identifying information reflects employees' self-defined identities**

Like everyone, managers should consistently use employees' identified name(s), pronoun(s) (she, he, they, zhe etc.) and prefixes (Ms. Mr. Mx. etc) in ways they have requested. If a manager is unsure of an employee's name or pronoun, then they should respectfully ask the employee how they would like to be identified. An employee's identified name(s) and identified pronoun(s) should be used in all communication and records, except where records must match a person's legal name if this differs from their identified name. If an employee begins using a different name or pronoun, then all systems should be updated accordingly. Some areas for updating with identified name, pronoun, and gender marker include:

- organizational charts
- phone directory databases
- mailing lists
- schedules
- employee personnel records
- email address
- identification card or access badge (as well as new photo if requested)
- door or desk name plates
- websites.

The employer should change an employee's personnel records (such as insurance and pension documents, payroll, and licenses) to reflect a change in legal name or legal sex designation when the employee indicates that such a change has taken place and that their insurance or pension benefits will not be compromised by using their identified name and gender marker. Pay cheques may need to be issued in a person's old name or dead name, as banks don't allow people to use a non-legal name. Managers should ask the employee which name is required for payroll purposes.

Note that when hiring, the name and sex provided by a job applicant may correspond with the applicant's gender identity. However, educational documents, background/ criminal record checks, references, etc., may disclose a dead name or legal sex designation that differs from the applicant's application. In such cases, hiring managers should respectfully ask whether the applicant was previously known by a different name, and confirm with the applicant the name and pronoun that should be used throughout the hiring process. This information will be considered confidential to protect the applicant.

# What co-workers can do

While managers can initiate workplace policies and build trans-inclusive infrastructure, cisgender workers have an important role to play in ensuring that the working environment is welcoming and supportive of trans and gender variant staff. All too often trans and gender variant workers are left to advocate for themselves. Having allies in the workplace can have a significant impact on the health, well-being, safety and even productivity<sup>2</sup> of trans and gender variant staff.

This section offers three ways that workers can contribute to creating trans-inclusive workplaces.

## 1. Avoid asking invasive questions

A colleague's dead name, medical history, or anatomy is personal and not necessary for co-workers to know. It is inappropriate to ask personal questions of a co-worker (or anyone). Someone may choose to volunteer information in the workplace about their identity or transition. If they do, an employee should not assume that it is appropriate to then share this information with management or other colleagues. Employees can help build inclusive workplaces by respecting the privacy of their co-workers.

## 2. Respect names and pronouns

Like managers, co-workers should consistently use the identified name (not the dead name) and pronouns (she, he, they, zhe etc.) that their co-worker(s) have requested. If an employee isn't sure what pronouns someone uses, then they should respectfully ask. When mistakes are made, employees can apologize and correct themselves.

Non-trans employees should also share their own pronouns, even if they think it is obvious. This creates a culture whereby workers learn to avoid making assumptions and talking about pronouns isn't left solely to trans and gender variant people. Employees may wish to consider including their identified pronouns in their email signatures and/or social media bios.

For example:

*Karina Singh (she/her)*  
*Operations Officer – Canadian Coast Guard*  
*555-123-4567*  
*ksingh@example.gc.ca*

or

*Aaryn Finn (they/them) is an interpreter with Parks Canada in Manitoba and proud member of PSAC local 1234. Tweets mostly about #canlab, #canqueer, history, hiking and their two cats.*

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<sup>2</sup> A UK study published in the *Journal of Vocational Behaviour* (2017) found that trans people who were "out" and were able to transition in the workplace experienced higher job satisfaction and mental health outcomes than before they transitioned. According to the authors, the results suggest that "firms should not treat transitioning employees in a biased way, since their transition might entail positive personal and workplace advancements" [doi.org/10.1016/j.jvb.2016.09.003](https://doi.org/10.1016/j.jvb.2016.09.003)

### 3. Advocate for trans inclusive workplaces

There are a number of proactive measures that employers can take to make workplaces more inclusive (see previous section, 'What managers can do'). Pushing for changes in the workplace often falls to trans people themselves, and by the time trans people are advocating for positive measures it usually means that they have had to endure some aspect of a workplace that was not trans-inclusive.

Employees, including those who are cisgender, should take initiative to ensure that the workplace is being pro-active about trans inclusion. Employees can speak to human resources and managers about trans inclusion, ask for updates to workplace policies, request workplace training on gender and trans inclusion, and/or advocate for gender inclusive washrooms. This advocacy can and should be done even in workplaces where it is assumed that there are no trans workers. Having positive measures in place makes it easier for when a trans person is hired or comes out at work, and for trans co-workers who an employee might not know are trans.

# What unions can do

As workers' representatives, unions have an important role to play in ensuring that the rights of trans and gender variant people are protected in the workplace and beyond. In addition to representing individual trans members, unions should bargain for trans-inclusive language and provisions in collective agreements and advocate for trans issues at large.

This section outlines four steps the union can take to build trans inclusive workplaces.

## 1. Include workplace protections and policies for trans and gender variant workers in bargaining demands

Trans and gender variant workers are just as entitled to a safe workplace as any other worker. Frequently, however, transphobia and/or a lack of awareness about trans issues means that the harassment that trans employees may experience is not recognized as harassment. For example, asking invasive questions or refusing to use a worker's identified name and pronoun both constitute harassment but some managers or human resource professionals might not take this behavior seriously.

Clear collective agreement language is one of the most effective ways to guarantee workplace protections. It is also an important educational tool for managers and workers alike. Therefore, unions should negotiate anti-discrimination and anti-harassment collective agreement clauses that include gender identity and gender expression.

Unions should also consider bargaining for a trans inclusion policy in collective agreements. An example of this type of policy is as follows:

"The [union] and [employer] agree to the following trans inclusion policy to protect trans and gender-variant workers.

The [employer] and the [union] will make every effort to protect the privacy and safety of trans and gender variant workers. Upon request by an employee, [the employer] will update all employee records and directories to reflect the employee's name, gender marker, prefix and pronoun. This may include name tags, employee IDs, email addresses, organizational charts, health care coverage and schedules.

[The employer] will provide gender-inclusive washroom and change room facilities. [The union] and [employer] recognizes that a worker has the right to use a facility that corresponds with their gender identity and will not require any worker to use a gender inclusive facility.

Health care benefit coverage for transition-related costs, and medical leaves of absence for trans employees, will be provided / accommodated on the same terms as any other medical cost or leave.

[If dress codes/uniforms are required in the workplace]: Employees are entitled to wear the uniform of their choosing regardless of their perceived gender identity.

The [employer] and [union] recognizes that limiting or modifying the duties of trans or gender variant employees based on discriminatory concerns from the public or coworkers is inappropriate.

[If gender-specific work assignments or duties exist]: When assigning trans employees to gender-specific duties, the employer agrees to consider the employee's comfort/safety level and, if requested by the employee, to assign them to duties that correspond to their gender identity regardless of their sex assigned at birth. When assigning employees to gender-specific duties, the employer agrees that medical or legal documentation of an employee's gender is not required.

Upon notification by an employee wishing to transition, or at the request of the union, the [employer] will work with the union and the employee to develop a transition plan that meets the employee's needs."

## 2. Advocate for public medical coverage of transition related expenses and negotiate benefit coverage

Medical procedures related to transition are essential healthcare for many trans people. Trans workers might require medical coverage for some or all of the following:

- hormone therapy
- gender affirming surgeries including:
  - › genital reconstruction (penectomy, orchiectomy, vaginoplasty, labiaplasty, clitoroplasty, vaginectomy, phalloplasty, scrotoplasty)
  - › breast augmentation
  - › mastectomy and chest contouring/chest masculinization
  - › facial feminization
  - › cartilage shave
- electrolysis/laser hair removal
- wigs
- breast prosthesis and bras for prosthesis
- voice classes for pitch/modulation
- counselling/psychologists

Unfortunately, coverage for transition related medical procedures varies significantly by province/territory in Canada. As of 2018, every province and territory except Nunavut and Northwest Territories provides some coverage for certain gender affirming surgeries. Accessing surgical care, however, remains prohibitively difficult for many trans people. Waitlists for surgeries and specialist appointments can be very long and travel is frequently required. The only clinic in Canada that offers "bottom surgery" (genital reconstruction), for instance, is in Montreal. Trans people seeking the procedure who don't live there are therefore forced to travel to Montreal or abroad for surgery. A recent survey of trans people in Ontario found that 57% of respondents who had had at least one gender affirming surgery had to travel over 2 hours to access it.<sup>3</sup> Similarly, many procedures that some trans people will feel are necessary

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<sup>3</sup> Coronel Villalobos M, Stiegler S, Frohard-Dourlent H, & Saewyc E. (2018). A survey of experiences with surgical readiness assessment and gender-affirming surgery among trans people living in Ontario. [saravyc.sites.olt.ubc.ca/files/2018/03/SARAVYC\\_TCBC-Report-Care-Survey-V4-Final-WEB.pdf](https://saravyc.sites.olt.ubc.ca/files/2018/03/SARAVYC_TCBC-Report-Care-Survey-V4-Final-WEB.pdf)



for their transition (e.g. facial feminization or phalloplasty) are not covered at all in most places. Moreover, the cost of non-surgical expenses, such as laser hair removal, can be very high. Some respondents in the same survey reported spending up to \$10,000 on transition-related expenses.

Unions should advocate for better coverage and accessibility for trans healthcare in all provincial/ territorial health plans, while also negotiating inclusive benefit coverage with employers. Many benefit plans already provide some of the coverage listed above (e.g. hormone therapy, wigs and breast prosthesis may already be covered for cancer survivors). There should be no discrimination in access to these benefits.

The following is model language for bargaining: “The employer will put in place a group benefit plan with coverage for the costs of gender affirming surgeries, not covered by provincial health plans. In addition, the employer will include coverage for any transition related expenses, not already covered under the benefit plan including but not limited to wigs, electrolysis, breast prosthesis, hormone therapy, silicone/saline implants, special bras for prosthesis, voice classes, counselling and medical-related travel expenses.”<sup>4</sup>

### 3. Educate members about trans issues

Even within the labour movement, many people lack awareness about trans issues. Non-trans union members might raise concerns about working or sharing facilities with trans co-workers. These concerns are discriminatory and usually based on misinformation. Members who do this should be provided with information about the workplaces non-discrimination and anti-harassment policies. They should be informed that they are required to work cooperatively with all other members regardless of gender identity, and if they fail to do so the harassment policy will take effect.

Workplace training is often an effective way to combat ignorance in the first place. Unions should develop trans inclusion courses as part of their education programs for stewards and members. Many believe that these courses should be led by trans members, trans staff, or external trans advocates. Others, however, feel that the burden of education for cis people far too often falls only on trans people. Therefore, the decision about who should facilitate this training should be made in consultation with trans staff. Union representatives can also work with managers to develop trans-inclusion training for both management and workers in local workplaces.

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<sup>4</sup> This language is adapted from the Canadian Labour Congress's *Workers in Transition: A Practical Guide About Gender Transition for Union Representatives* (2012).  
[canadianlabour.ca/sites/default/files/media/WorkersInTransitionGuide-2011-04-EN.pdf](http://canadianlabour.ca/sites/default/files/media/WorkersInTransitionGuide-2011-04-EN.pdf)



#### 4. Bargain for dedicated transition leave

As noted above, trans workers frequently have to travel in order to access medical care. Even where travel is not required, recovery time for certain surgeries may necessitate time off work. Therefore, unions should include dedicated leave with pay for trans workers accessing medical care in their bargaining demands. Bargaining teams will have to consider how transition leave might be negotiated alongside demands for sick leave and other paid time-off.

Model collective agreement language is as follows: “The employer will grant an employee up to XX weeks of leave with pay for medical procedures related to transitioning. This leave can be used to accommodate any necessary assessments/consultations, travel and/or recovery time.”

# When an employee comes out or transitions at work

Sometimes an employee will choose to “come out” at work and/or transition while in the workplace. This might involve medical procedures and/or changes to names, pronouns, and appearance. It is important to remember, however, that some trans people will opt to continue using the same name, and/or may not undergo any medical procedures. Their gender identities are just as valid and should be respected.

If an employee chooses to transition at work, it is up to them to decide when they are ready to inform people at work about their gender identity or transition process.

Who the employee tells first will usually depend on their individual circumstances, but they may choose their supervisor, manager, a colleague or a union representative. Regardless of who the employee contacts, all are bound to keep the information confidential, unless otherwise directed by the employee.

The employee should feel supported and be confident in knowing that discrimination or harassment of trans employees will not be tolerated. Managers should ensure that the employee and their teammates have access to well-informed counsellors and trans-inclusion training to safeguard against discrimination and harassment towards the trans employee. (For more information on workplace training see ‘What managers can do 2’ and ‘What unions can do 3’).

This section provides a list of steps that can be taken when someone is transitioning in the workplace.

## 1. Consider creating a transition plan

For some trans workers, creating a transition plan with management can be helpful. A transition plan helps ensure that all required changes are addressed and in appropriate ways.

Any transition plan may include the following:

- the anticipated date for a change of name (if they choose to change their name), personal details and identified gender
- an anticipated date for medical appointments, treatments and surgical procedures and the type of leave to use, if required
- when to notify the pay and benefits section of the name change, if any
- when to notify security for a new identity card and security clearance, if needed
- when and how colleagues should be informed, as determined by the employee
- when any additional training will be instituted
- how to handle any harassment or hostile reaction
- any Duty to Accommodate (DTA) measures that may need to be implemented

The employee might not know all of the details from the outset and a transition plan should be a flexible document that can be adapted by the employee along the way. (For a transition plan template see Appendix C).

The use of the above transition plan points is optional, and the level of detail entered should be a matter for the employee to decide. The employee and manager may use it as a guide to the possible steps the transition may take, and may decide to complete it together as the employee's plans for transition arise. It is recommended that managers not impose the use of a transition plan on an individual nor use it to dictate the pace of the transition process. Managers should also remember that the information contained in the document is confidential.

## **2. Decide if/how to inform co-workers**

If an employee chooses to inform co-workers of a new name, identified gender, pronoun or prefix then the employee, with the support of the manager, should determine who in the workplace they wish to inform and how they want this information communicated. For example, some employees may request that a manager or union representative inform colleagues for them by sending an email to all staff (for a sample letter to colleagues see Appendix D). Other employees may opt to inform their co-workers themselves with in-person meetings.

The way that co-workers are informed, if at all, might depend on the size and type of workplace. For instance, in a shift work environment it may be necessary to meet with each group of shift workers separately, or for small work groups, face-to-face communication may be the best form of communication. For larger teams, email may be more suitable. Email also allows for return messages of support, which can be greatly appreciated by the employee.

## **3. Update all identifying information**

As discussed in the section on 'What managers can do', if a worker begins using a different name or gender marker then all systems should be updated accordingly. These may include email addresses, door or desk name plates, organizational charts, directories etc. The employer should update payroll and benefit/pension files if the employee requests such a change and if they are certain that the employee's pay and benefits will not be compromised by using a different name or gender.

It is important to recognize that some workers may not be able to change their identity documents legally. This may be because they are born in a jurisdiction that does not allow a change at all, or which requires proof of gender-affirming surgery which is difficult to access, inappropriate or unavailable for many trans people. This underlines the employers' obligation to use a person's name without requiring a legal name change or any changed identity documents.

The following table<sup>5</sup> indicates which provinces allow for which changes to be made legally. It provides a link to the vital statistics services site for each province and territory as well as a direct link, if available, to change the gender on a birth certificate, and a link for legal name changes. It should be noted that even if an employee was born or resides in a province or territory that allows for legal name and/or sex/gender marker changes, the employee should not be required to acquire such a legal change in order to have their identifying information updated at work.

Provincial/territorial contacts for name or gender change on identification		
Provincial/territorial	Name change	Gender/sex change
Alberta	<a href="#">Changing a name (Alberta)</a>	<a href="#">Change sex information (Alberta)</a>
British Columbia	<a href="#">Legal changes of name (British Columbia)</a>	<a href="#">Change of gender designation on birth certificate (British Columbia)</a>
Manitoba	<a href="#">Legal change of name (Manitoba)</a>	<a href="#">Change of sex designation (Manitoba)</a>
New Brunswick	<a href="#">Change of name (New Brunswick)</a>	<a href="#">Vital statistics (New Brunswick)</a>
Newfoundland and Labrador	<a href="#">Legal name change (Newfoundland and Labrador)</a>	<a href="#">Changing your sex designation (Newfoundland and Labrador)</a>
Nova Scotia	<a href="#">Changing your name (Nova Scotia)</a>	<a href="#">Changing your sex designation (Nova Scotia)</a>
Northwest Territories	<a href="#">Changing your name (Northwest Territories)</a>	<a href="#">Changing your sex designation (Northwest Territories)</a>
Nunavut	<a href="#">Change of name (Nunavut)</a>	Information not available
Ontario	<a href="#">Change name (Ontario)</a>	<a href="#">Changing your sex designation on your birth registration and birth certificate (Ontario)</a>
Prince Edward Island	<a href="#">Change your name legally (Prince Edward Island)</a>	<a href="#">Transgender Health Services (Prince Edward Island)</a>
Quebec	<a href="#">Change of name (Quebec)</a>	<a href="#">Change of sex designation (Quebec)</a>
Saskatchewan	<a href="#">Changing your name (Saskatchewan)</a>	<a href="#">Change sex designation (Saskatchewan)</a>
Yukon	<a href="#">Change of name (Yukon)</a>	<a href="#">Gender designation (Yukon)</a>

#### 4. Continue to monitor the workplace

After an employee has transitioned or come out to colleagues, it is important that managers, union representatives and workers continue to monitor the workplace environment. Harassment and gossip should be dealt with immediately.

An occasional check in the early days just to see how things are going may identify any issues, including any that were overlooked when the transition plan was developed, if it was. Workplace training, policies and infrastructure should all be reviewed regularly as language, resources and staff evolve.

<sup>5</sup> This table is from Public Services and Procurement Canada's *Support for Trans Employees*. [tspgc-pwgsc.gc.ca/apropos-about/guide-et-te-eng.html](https://tspgc-pwgsc.gc.ca/apropos-about/guide-et-te-eng.html)

## Conclusion

This guide was created to better equip managers, workers and unions to build trans-inclusive workplaces. Becoming more inclusive is an ongoing process. It is our hope that the recommendations put forward in this guide will make this process clearer and more accessible.

PSAC is committed to providing effective representation for all members – including trans and gender variant workers. We will continue to advocate for trans inclusion in the workplace and beyond.

We understand that parts of this guide might require updating or improvement. We will endeavor to keep the online version current and progressive. PSAC welcomes feedback and input, especially from trans members, on this guide or any other materials we produce.

In solidarity.

# Appendix A: Glossary of Terms

Definitions and terminology provided in this guide are not meant to label individuals, but rather to assist managers, workers, and union representatives in understanding some of the terminology they may come across when working with LGBTQ2+ people. The most important thing to remember when discussing issues of gender or sexuality is to refer to people as they refer to themselves. This fosters respect in the workplace. Below is a glossary of terms that may be helpful in improving understanding.

**AFAB/AMAB:** Stands for “assigned female at birth” or “assigned male at birth.” It refers to the sex that someone was given based on medical assumptions before they established their gender identity.

**Agender:** A term for someone who does not identify with any particular gender. Many agender people are trans. As a new and quickly-evolving term, it is best you ask how someone defines agender for themselves.

**Asexual (or Ace):** A sexual orientation generally characterized by not feeling sexual attraction or a desire for partnered sexuality. Asexuality is distinct from celibacy, which is the deliberate abstention from sexual activity. Some asexual/ace people do have sex. There are many diverse ways of being asexual.

**Bigender:** Refers to those who identify as two genders. Can also identify as multigender (identifying as two or more genders).

**Cisgender (or ‘cis’):** Term for someone who is not trans or whose gender identity corresponds with the sex they were assigned at birth.

**Cissexism:** The pervasive system of discrimination and exclusion that oppresses people whose gender and/or gender expression falls outside of cis-normative constructs. This system is founded on the belief that there are, and should be, only two genders and that one’s gender or most aspects of it, are inevitably tied to assigned sex. Within cissexism cisgender people are the dominant/agent group and trans/gender non-conforming people are the oppressed/target group.

**Coming out:** The process of acknowledging and expressing an aspect of one’s identity (for the purposes of this guide, a gender identity or trans status). It usually involves disclosing one’s gender identity and/or sexual orientation to family, friends, and/or co-workers. Coming out is a complex, selective, and ongoing process.

**Dead name:** This is a term to refer to a name that someone no longer uses. For example, it is important to not “dead name” someone by using the name they were assigned at birth that they no longer use.

**Gender affirming/confirming surgeries:** These are medical procedures that someone might undergo to reflect their gender identity. They used to be called “sex change operations” but someone seeking gender affirming surgeries is not changing their sex, they are affirming their gender. It is important to remember that not everyone who is trans will opt to have surgery and some may choose to have one surgery (for example “top surgery”) but not another (for example “bottom surgery”).

**Gender expression:** Everything that we do to communicate our gender to others. For example, the type of clothing we wear, our hair styles, mannerisms, the way we speak, the roles we take in interactions, etc. Gender expression is a continuum, with feminine at one end and masculine at the other. In between are gender expressions that are androgynous (neither masculine nor feminine) and those that combine elements of the two.

**Gender fluid:** A changing or “fluid” gender identity.

**Gender identity:** One’s internal sense of being a woman, a man, neither of these, both, or other gender(s). Everyone has a gender identity. For trans people, their sex assigned at birth and their gender identity are not necessarily the same.

**Gender variant:** An umbrella term for people whose gender expressions or identities differ from what is expected of someone with their assigned sex.

**Intersex:** Refers to a person whose chromosomal, hormonal or anatomical sex characteristics fall outside the conventional classifications of male or female. The designation of “intersex” can be experienced as stigmatizing given the history of medical practitioners imposing it as a diagnosis requiring correction, often through non-consensual surgical or pharmaceutical intervention on infants, children and young adults (some people may not be identified as “intersex” until puberty or even later in life).

**LGBTQ2+:** An acronym which stands for lesbian, gay, bisexual, trans, queer, two-spirit and others. There are many variations of this acronym. For example, some include an ‘I’ for intersex, an additional Q for questioning, an ‘A’ for asexual or ally and so on. PSAC adopted LGBTQ2+ at our 2018 convention.

**Non-binary:** An identifying term for someone who does not identify as a binary gender (man or woman) but may identify somewhere in between. Not all trans people are non-binary. Many (though not all) non-binary people do not use he or she pronouns and may instead use they or zhe. They may opt for the prefix ‘Mx.’ Instead of Ms. or Mr.

**Pronouns:** Linguistic tools used to refer to someone in the third person. Examples are they/them/theirs, ze/hir/hirs, she/her/hers, he/him/his. In English and some other languages, pronouns have been tied to gender and are a common site of misgendering (attributing a gender to someone that is incorrect.)

**Sex:** Biological attributes and legal categories used to classify humans as male, female, intersex or other categories, primarily associated with physical and physiological features including chromosomes, genetic expression, hormone levels and function, and reproductive/sexual anatomy.

**Sexual orientation:** An enduring emotional, romantic, sexual or affectional attraction or non-attraction to other people. Sexual orientation can be fluid and people use a variety of labels to describe their sexual orientation. It can include heterosexual/straight, gay/lesbian, bisexual/pansexual, asexual or more.

**Trans man/ trans woman:** Trans woman generally describes someone assigned male at birth who identifies as a woman. Trans man describes someone who was assigned female at birth who identifies as a man.

**Trans or transgender:** An umbrella term that describes a wide range of people whose gender and/or gender expression differ from their assigned sex and/or the societal and cultural expectations of their assigned sex. Trans may include people who are agender, bigender, gender creative, gender fluid, gender non-conforming, genderqueer, gender variant, pangender, trans man, trans woman, transfeminine, transmasculine, transsexual, and two-spirit. The term trans is not indicative of gender expression, sexual orientation, hormonal makeup, physical anatomy, or how one is perceived in daily life.

**Transition:** A person's process of developing and assuming a gender expression to match their gender identity. Transition can include: coming out to one's family, friends, and/or co-workers; changing one's name and/or sex on legal documents; hormone therapy; and possibly (though not always) some form of surgery. It's best not to assume how one transitions as it is different for everyone.

**Transphobia:** Systemic violence against trans people, associated with attitudes such as fear, discomfort, distrust, or disdain. This word is used similarly to homophobia, xenophobia, misogyny, etc.

**Two-Spirit (2-Spirit or 2S):** Term used within some Indigenous communities, encompassing sexual, gender, cultural, and/or spiritual identity. This umbrella term was created in the English language to reflect complex Indigenous understandings of gender and sexuality and the long history of sexual and gender diversity in Indigenous cultures. This term may refer to cross, multiple, and/or non-binary gender roles; non-heterosexual identities; and a range of cultural identities, roles, and practices embodied by Two Spirit peoples.



# Appendix B: Resources

## Public service resources

- Canadian Human Rights Commission
- Canadian Heritage, Sexual Orientation and Human Rights (including the “Out and About” brochure)
- Federal Public Service Pride Network
- Values and Ethics Code for the Public Sector
- Policy on Harassment Prevention and Resolution

## External resources

- **The 519**  
The 519 is committed to the health, happiness and full participation of the LGBTQ community. A City of Toronto agency with an innovative model of Service, Space and Leadership, we strive to make a real difference in people’s lives, while working to promote inclusion, understanding and respect
- **Parents, Families, Friends of Lesbians and Gays (PFLAG)**  
PFLAG Canada supports, educates and provides resources to anyone with questions or concerns about the LGBTQ2+ communities and coming out
- **Alterhéros** (available in French only)  
AlterHéros is an incorporated non-profit organization whose mission is to facilitate the social and community integration of gay, lesbian, bisexual and transgendered youth
- **Egale—Canada Human Rights Trust**  
Egale Canada advances equality and justice for lesbian, gay, bisexual and trans-identified people, and their families, across Canada
- **TransParent Canada**
- **Gender Creative Kids Canada**  
Provides resources for supporting and affirming gender creative kids within their families, schools and communities
- **Ottawa Distress Centre** (NCR, available in English only)
- **Mental Health Services** (national, bilingual in NCR)
- **Lesbian Gay Bi Trans Youth Line**  
The LGBT Youth Line is a toll-free Ontario-wide peer-support phone line for lesbian, gay, bisexual, transgender, transsexual, two-spirited, queer and questioning young people

- **The Canadian Centre for Gender and Sexual Diversity (CCGSD)**  
The CCGSD intersectionally promotes diversity in gender identity, gender expression, and romantic and/or sexual orientation in all its forms on a national level through services in the areas of education, health, and advocacy
- **Transgender Health Information Program**  
Provincial Health Services Authority (PHSA) is responsible for the provincial coordination of transgender health services in BC. The transgender Health Information Program (THiP), a BC-wide information hub providing information about gender affirming care and supports, is in the process of integrating with the trans Care BC program at PHSA
- **Trans Alliance Society** (British Columbia)  
The Trans Alliance Society is a province-wide coalition, with the aim of building connections between individuals and groups working on trans issues. They have some online resources including an online service directory, educational guides, publications, and more
- **Trans Rights British Columbia**  
This project aims to disseminate human rights information that is accurate, accessible, and relevant to the safety and well-being of trans and gender-diverse individuals and their supportive allies across British Columbia
- **Gender-free Legal Writing**  
British Columbia Law Institute

# Appendix C: Transition Plan Template

Objective: This is a document for a transitioning employee to plan certain aspects of their transition in the workplace with a manager, human resources professional and/or union representative. It creates a clear record of the employee's requests for transitioning.

\* *NOTES: No employee should be obligated to use this or any other transition plan. The employee might not have made every decision yet. The employee can change, add to or update their requests at any time.*

Employee's identified (new) name: \_\_\_\_\_

Employee's identified gender: \_\_\_\_\_

Employee's pronouns: \_\_\_\_\_

Employee's prefix (Ms., Mr., Mx. Dr. etc.): \_\_\_\_\_

Employee's confidential personal contact (optional): \_\_\_\_\_

Employee's manager: \_\_\_\_\_

## INFORMING STAFF:

\* *NOTE: some of these questions might need to be answered more than once if the employee has different requests for different staff. For instance, the employee might want to inform certain staff by email and others in person. In that case, question 4 should be duplicated with the staff or teams specified for each method of informing them.*

### 1. The employee has already informed the following staff members:

---

---

#### Of (select all that apply):

- Their gender identity
- Their name
- Upcoming leave (if any)
- Other (please specify) \_\_\_\_\_

### 2. The employee wishes to inform the following staff members or teams:

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---

#### Of (select all that apply):

- Their gender identity
- Their name
- Upcoming leave (if any)
- Other (please specify) \_\_\_\_\_

**3. The employee has requested that the identified staff members are informed by:**

- The employee themselves
- The manager (insert name): \_\_\_\_\_
- The union representative (insert name): \_\_\_\_\_
- Someone else (please specify): \_\_\_\_\_

**4. The employee has requested that the identified staff members are informed in the following way(s):**

- Group email
- Individual email
- Team meeting
- Individual meetings
- In another way (please specify) \_\_\_\_\_

**5. The employee has requested that identified staff members are informed on the following date:** \_\_\_\_\_

**UPDATING RECORDS AND CONTACTS:**

**1. The employee would like to change the following (select all that apply):**

- Email address
- Door or desk name plate
- Name on identity card or access badge
- Photo on identity card or access badge
- Contact info on website
- Photo on website
- Name on pay cheque (if bank can process them)
- Uniform
- Other (please specify) \_\_\_\_\_

**2. The employee would like the above changes made on the following date:** \_\_\_\_\_

**LEAVE FROM WORK (IF ANY)**

**1. The employee would like to access the following leave:**

- Medical leave
- Vacation
- Other (please specify) \_\_\_\_\_

**2. The employee has requested leave for the following dates:** \_\_\_\_\_

**OTHER:**

The employee would also like to have the following in writing (insert any additional considerations that should be recorded): \_\_\_\_\_  
\_\_\_\_\_

## Appendix D: Sample Letters to Colleagues

*The following is an example of a letter from a trans employee to their colleagues.*

Dear colleagues,

I am writing to inform you that I identify as non-binary. My name is now Mateo. I ask that from now on you use they/them pronouns when referring to me, and only use my new name as I no longer go by my previous name.

I know that my identity might be new to some of you and I ask that you continue to treat me with the same respect. If you would like more information about non-binary identities then I invite you to check out this page:

[lgbt.foundation/who-we-help/trans-people/non-binary](https://lgbt.foundation/who-we-help/trans-people/non-binary)

All the best,

Mateo

*The following is an example of a letter from a manager to the employees, informing them of a colleague's transition and return to the workplace.*

Dear colleagues,

I write to inform you that Jasmine Chu (formerly Allan) is currently on medical leave. From now on, all staff should use Jasmine's name and she/her pronouns. Jasmine will be using the women's washrooms and the women's changing room at shift change from now on, and her name will appear on all schedules.

Jasmine has a right to a harassment-free workplace, and [department/work site] and [union] are jointly committed to supporting her in this.

Additionally, we will be hosting a three-hour training session on gender identity and trans inclusion at 1:00pm on Tuesday, June 22nd. All staff are welcome to attend.

Should you have questions, please direct them to manager A.

Please join us in making her feel welcome.

# Appendix E: Federal legislation

## Legislation related to transgender issues.

### Charter of Rights and Freedoms

Section 15(1) states: “Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.”

### *Canadian Human Rights Act*

The *Canadian Human Rights Act* (CHRA) requires federal government departments and federally regulated organizations to provide workplace accommodation to anyone protected by the law unless doing so would result in undue hardship. This is commonly referred to as the «duty to accommodate» and is detailed in sections 2 to 15 of the act.

Section 7 states: “It is a discriminatory practice, directly or indirectly,

- a. to refuse to employ or continue to employ any individual
- b. in the course of employment, to differentiate adversely in relation to an employee, on a prohibited ground of discrimination.

This act protects and provides equal opportunity to individuals who may be victims of discriminatory practices based on 13 prohibited grounds: race, national or ethnic origin, colour, religion, age, sex, sexual orientation, gender identity or expression, marital status, family status, genetic characteristics, disability or conviction for an offence for which a pardon has been granted.”

### *Privacy Act*

The purpose of this act is to extend the present laws of Canada that protect the privacy of individuals with respect to personal information about themselves held by a government institution and that provide individuals with a right of access to that information.

# Appendix F: Jurisprudence

The following are examples of Canadian court decisions involving trans issues.

Some information is available in one language only (English or French) and jurisprudence cited may use initials only to protect the individual's right to privacy.

## **Ferris versus Office and Technical Employees Union, Local 15**

[\(1999\) 36 Canadian Human Rights Reporter D/329 \(British Columbia Human Rights Tribunal\)](#)

A human rights complaint was made by Leslie Ferris regarding her treatment as a transsexual at work. In particular, her complaint was about the union's handling of a complaint about her use of the women's washroom. The BC Human Rights Tribunal found the union did not adequately represent Ms. Ferris and ordered the union to pay damages including \$5,000 for injury to Ms. Ferris's dignity.

Ms. Ferris is a trans woman with 20 years' service at her place of employment. She had not had genital surgery at the time of the human rights complaint. A complaint was made by a co-worker about "a man using the women's washroom". The union failed to consult with Ms. Ferris and failed to properly investigate the situation.

At the hearing into her human rights complaint, Ms. Ferris's doctor testified about the impact on a trans woman of being challenged as not truly a woman. She said that such challenges are distressing. They lead to feelings of humiliation and shame, as well as anger. They are embarrassing.

In the doctor's view, it is best to try to discuss issues that arise about transsexual people in the workplace in an open and honest manner, not in a confrontational way. Often, the misunderstanding of coworkers and employers is based on fear and ignorance.

The Tribunal accepted that trans people are particularly vulnerable to discrimination. They often bear the brunt of our society's misunderstanding and ignorance about gender identity. In the context of the workplace, washroom use issues are often contentious and, in the absence of knowledge, sensitivity and respect for all concerned can inflict a great deal of emotional harm on the transgendered person.

The Tribunal held that the union simply acquiesced in the company's treatment of the anonymous complaint as legitimate, and its implicit characterization of the complainant as a problem who required some accommodation. The union's unexplained inability to properly consult with Ms. Ferris resulted in considerable damage to her health, finances, dignity and self-esteem. The union's failure to properly deal with the washroom complaint was a breach of the Code and resulted in an order against the union.

## **M.L. and Commission des droits de la personne et des droits de la jeunesse du Québec contre Maison des jeunes**

(1998) 33 CHRR D/623 (Tribunaux du Québec)

M.L. was hired as a street help worker by the Maison des jeunes under an initial four-month contract. Following a positive evaluation of her work, she was hired for a longer contract. M.L. was in the process of transition to a woman at the time of these contracts. She had been living for several months as a woman in all aspects of her daily life and had been using a female first name, except at work. Near the end of her second contract, she informed her employer about her transition. Shortly after, the employer advised M.L. that her contract was terminated and did not offer M.L. any other position.

The Tribunal declared that the protected ground of “sex” in section 10 of Quebec’s Charter of Human Rights and Freedoms includes the transition from one sex to another and found that the dismissal and refusal to rehire were based on M.L.’s trans status. It awarded M.L. damages.

## **Kimberly Nixon versus Vancouver Rape Relief Society**

[\(2006\) Supreme Court of Canada Appeal No. 365](#)

On February 1, 2007 the Supreme Court of Canada denied Kimberly Nixon’s leave to appeal application ending her 12-year case against Vancouver’s Rape Relief Society. Ms. Nixon, a trans woman, was rejected from volunteer training for peer counselling services provided by the Vancouver Rape Relief Society. She filed a human rights complaint.

That Court stated that the behaviour of the Society met the test of discrimination; however, it was exempted by section 41 of the Human Rights Code. That section allows charitable or social organizations to grant preference to an identifiable group of people. In this case, the Society only took peer counsellors from women who were assigned female at birth and raised as women. It is noteworthy that the earlier Court said that exclusion from the volunteer training session was “quite a different case from being excluded from a restaurant because of her trans characteristics. Unlike a for-profit business providing services or recruiting employees from the general public or a volunteer organization open to all, Rape Relief defined itself as a women-only organization and defined that group as women who had been born women.”

This decision is regarded as a set-back for trans people. Its impact will be limited however, because of the specific situation applying to social and charitable organizations under BC human rights legislation.

## **Hogan, Stonehouse, AB and McDonald versus Her Majesty the Queen in Right of Ontario as represented by the Minister of Health and Long-Term Care**

[www.ohrc.on.ca/pt/node/10260](http://www.ohrc.on.ca/pt/node/10260)

2006 HRTO 32

In 2006, Ontario’s Human Rights Tribunal ruled in favour of three trans people who fought the delisting of gender affirming surgeries from OHIP, Ontario’s public health insurance program. The complainants were in the process of transitioning when “sex reassignment surgery” was delisted. The ruling confirms that gender identity is a protected ground under “sex” and “disability” where relevant. The government was found to have breached the complainants’



human rights by not continuing to cover those who had begun the process before delisting. However, the Tribunal did not compel the government to relist sex reassignment surgery. The labour movement joined with trans activists to call for the relisting of sex reassignment surgery. In May 2008, the Ontario government finally relisted sex reassignment surgery.

### **C.F. versus Alberta**

#### [2014 Alberta Queen's Bench 237](#)

Alberta's Director of Vital Statistics interpreted her home statute, the *Vital Statistics Act* (Repealed Statutes and Acts 2000, c V-4 [Old VSA], later repealed and replaced by Statutes and Acts 2007, c V-4.1 [New VSA]) in a way that required trans people to have genital surgery in order to be eligible to have the sex on their birth certificate changed. C.F., a trans woman, challenged this interpretation as contrary to her rights under sections 7 and 15 of the *Canadian Charter of Rights and Freedoms* (*Charter*). In a ground breaking decision released on April 22, 2014, Justice B.R. Burrows of the Alberta Court of Queen's Bench found in favour of C.F. and ordered the Director to issue her a new birth certificate. The Alberta government has included amendments to the *Vital Statistics Act* in section 9 of Bill 12, the *Statutes Amendment Act, 2014*, which was introduced in the legislature on May 5, 2014.

#### [Bill 12](#)

#### [Statutes Amendment Act, 2014 \(PDF, 588KB\)](#)

### **X.Y. versus Ontario (Minister of Government and Consumer Services), [2012] Ontario Human Rights Tribunal Decision No. 715**

#### [2012 Human Rights Tribunal of Ontario 726](#)

The decision found that legislation requiring a person to have "transsexual surgery" before they can change the sex designation on their birth registration is discriminatory.

It says that requiring surgery adds to the disadvantage and stigma experienced by members of this community, and reinforces the stereotype that trans persons must have surgery in order to live in their felt gender. It also found that the goals of the *Vital Statistics Act* (VSA) would not be harmed by removing this requirement.

The decision confirms the Ontario Human Rights Commission's (OHRC) position that gender identity should be recognized based on lived identity, and not depend on a surgical procedure.

### **Kavanagh versus Canada (Attorney General), [2001] Canadian Human Rights Decision (CHRD) No. 21**

In *Kavanagh v Canada* (Attorney General), [2001] CHRD No. 21, QL, the Canadian Human Rights Tribunal confirmed that gender affirming surgeries cannot be prohibited while an individual is incarcerated, but the penal institution's duty to accommodate does not guarantee that "pre-operative" trans people are placed in the institution of their target gender.

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[psacunion.ca](http://psacunion.ca)