



Talking about gender identity and gender expression

Looking back...

Over the years, the Ontario Human Rights Commission (OHRC) has taken steps to address discrimination because of gender identity. In 1999, the OHRC released “Toward a Commission Policy on Gender Identity” for public comment.¹ In 2000, the OHRC released its first *Policy on discrimination and harassment because of gender identity*, taking the position that the ground of “sex” could be interpreted to include gender identity. Following the release of this policy, the OHRC continued to call for explicit recognition of gender identity as a protected ground in Ontario’s *Human Rights Code*.

The OHRC has also been actively litigating cases related to gender identity. For example, the OHRC was involved in *XY v. Ontario (Government and Consumer Services)*,² a case that dealt with requirements for transgender people to change the sex-designation on their birth certificates. The OHRC was also involved in *Forrester v. Peel (Regional Municipality) Police Services Board et al*, which dealt with how police services search transsexual detainees,³ and in *Hogan v. Ontario (Health and Long-Term Care)* dealing with access to sex reassignment surgery services.⁴

Looking forward – towards a new policy

In 2012, Ontario added the grounds “gender identity” and “gender expression” to the *Human Rights Code*. The OHRC then moved to update its *Policy on discrimination and harassment because of gender identity*. In 2012-13, the OHRC did a literature review revealing a wealth of information on how gender identity and human rights is understood from a variety of perspectives. At the same time, human rights law in Canada and internationally has continued to advance understanding and protection of legal rights for trans people.

In 2013, the OHRC hosted an online public consultation survey on policy issues related to gender identity, including use of terminology, types of discrimination trans people experience, and how the OHRC can help organizations understand their *Code* responsibilities related to these grounds. We received more than 750 responses to the survey from members of the public as well as community services organizations, educators, unions and employers.

OHRC staff also conducted one-on-one interviews with a range of individuals and organizations to explore issues in depth and to identify individuals and groups who could take part in future outreach and education activity.



The survey – what we heard

The survey was not about statistics – it was about giving people an opportunity to share their experiences and their ideas, to give us a snapshot of some of the key issues relating to gender identity and expression in today’s world. The following sections outline the questions we asked and some of the responses we received.

1. Understanding the new grounds

The *Code* does not define the grounds of gender identity, gender expression or sex. Instead, the understanding of these and other related terms, and the implications for the *Code* and OHRC policies, is evolving from tribunal and court decisions, social science research as well as self-identity and common everyday use.

Like any other words describing individual characteristics, the language we use is deeply personal, and it changes over time. To guide us in the best choice of language for the policy, we asked survey participants to comment on a series of draft descriptions. We received a wide variety of suggestions and opinions, which reinforced our need to find a “middle ground” for today, and to be prepared to update the language in future. Here is a sample of the different comments we received for each term.

What we heard...

General comments

- Need to explain concept of gender to understand gender identity
- Gender identity and gender expression vary depending on the cultural context
- Using the term “deeply felt” to describe gender identity is problematic – what legal test does this invite/imply? Is this a test of “bona fide” belief? A person shouldn’t have to prove this. This signals profound discomfort with the idea of self-identification for this group – should not be part of the definition
- Recognize gender fluidity, not just people who conform to binary vision of gender
- Some think both grounds apply to everyone, others think that gender expression applies to everyone (regardless of trans identity)
- Some trans people simply want to be recognized as the gender they identify with (e.g. man, woman or male/female) – they want to be recognized within the gender binary. Others have gender identities outside the binary – trans, gender non-conforming, etc.
- Important for descriptions to have a non-medicalized approach.

Gender Identity

- Gender identity doesn't only affect trans people – cisgender people also have a gender identity – we should be clear in the policy that gender expression applies to everyone, while gender identity specifically applies to trans people
- Should be “may include” an individual's personal sense of their body
- “Birth sex” should be replaced with “sex assigned at birth”
- Be clear gender is not only two categories – not a binary – a spectrum of identification
- Social norms of “male” and “female” not feminine and masculine
- Not everyone has a “deeply felt” “internal” sense of their gender. Also implicates a binary, and excludes people who are gender fluid
- Include deeply felt sense of having no gender or being gender fluid – “individual experience of gender, its fluidity, or lack of a strong experience of gender.” Also drop reference to “deeply felt” – it isn't deeply felt by some
- Gender identity comes from within – however a person “self-identifies”
- A person's gender identity can be the same as, or different from, that which is typically associated with their assigned sex at birth
- Use of “correspond” reinforces cisnormativity. What does gender identity look like? Note that the most common pathway, of being cissexual, is not the only pathway
- “Social norms of male and female” reinforces heteronormativity – suggest using “socially constructed expectations” of male and female
- Gender identity is linked to an individual's intrinsic sense of self and their sense of being male, female, a combination of both or neither regardless of the sex they were assigned at birth
- Suggest changing last sentence describing gender expression to say: “people may choose to modify their gender expression and/or their body appearance or function by medical, surgical or other means to better reflect their gender identity”
- After last sentence, add: “to align their physical appearance with their internal gender identity”
- A person's gender identity may or may not correspond with social norms of “male and “female.” Reference to birth sex in a definition applicable to their core identity may be seen as inappropriate/offensive to trans people
- The definition should refer to social norms associated with being a “man” or “woman” in society – male and female are sexes (not norms)
- Gender identity is linked to an individual's intrinsic sense of self and their sense of being female, male, a combination of both, or neither regardless of their biological sex
- A person's gender identity may change over time.

Gender expression

- Not “external attributes” – but “expressive activities,” such as behaviour, appearance, dress, etc.
- Include: chosen names and preferred pronouns – two important ways to express one’s gender
- Include: gender expression doesn’t necessarily correspond with gender identity (e.g. identify as male, but express their male gender identity in ways perceived as “feminine” or of the female sex – e.g. makeup and nail polish)
- People can express a gender (or gendered attributes) that are different from their gender identity (e.g. identify as female, express “male” attributes/gender)
- People’s perception not important in a definition about how one chooses to express themselves. More concerns about expression being about how one chooses to express oneself, emphasis shouldn’t be on other people’s perceptions
- Other respondents liked including others’ perceptions – this description is accurate and reflects reality
- Communicate the idea of a gender continuum – not a binary or a list of abnormal states
- Dress, speech, mannerisms – include hairstyles and presentation
- The way a person expresses their gender identity
- Public expression of gender identity – performed to demonstrate one’s gender identity.

Other ideas on the grounds

- There is a continuum of identity which encompasses sex and gender and the expression of these aspects of identity
- Instead of “others” include gender non-conforming and gender neutral
- Discuss how the grounds are linked, discrimination often occurs on multiple grounds related to social norms about gender and sex – sometimes linked, but not always... discuss in the policy how they may be linked and not (e.g. a cisgender woman, who has masculine gender expression can face discrimination)
- Gender expression and gender identity may not “match” or correspond – e.g. born male, gender identity is female, and gender expression could be “male”
- Include that gender identity and gender expression may or may not be linked – e.g. a butch woman might identify as a woman but present a more masculine gender expression
- Concerns about linking sexual orientation – the need to make sure the policy clearly outlines that gender identity/expression are different and not related to sexual orientation
- Gender is about the cultural categories of “man” and “woman” rather than masculine and feminine (how we express our gender)
- “others” is dehumanizing – use another term, such as “any other form of expressing one’s gender”

- Concepts seem to overlap – this is confusing for some. Some would like the concepts to be clearly defined and separate/distinct
- Why do we need definitions? It seems limiting and we don't want to exclude anyone
- Gender non-conforming/gender variant: people who do not follow stereotypes about how they should look or act based on the sex they were assigned at birth. For example, “feminine” boys, “masculine” girls and people who are androgynous
- Concerns about defining the grounds – will likely end up excluding some, even inadvertently.

Trans

- Should indicate the list of identities it refers to... and include “and many others”
- Is sexist and derogatory – reinforces the gender binary
- An umbrella term, like the term transgender, used to describe people who do not conform to societal expectations of “normal” gender behaviour. Includes all... including gender queer and gender non-conforming
- Trans definition should be same as for transgender
- An umbrella term referring to people who do not embrace traditional binary gender norms of masculine and feminine and/or whose gender identity does not fit with the one they were assigned at birth
- The emphasis on not conforming to the gender binary is oppressive.

Intersex

- Intersex definition is outdated and doesn't reflect current terminology
- Should include “medicalized definitions of male and female”
- An umbrella term used to describe people whose sex characteristics do not fit into traditional medicalized definitions of male and female
- Should include genetic and/or chromosome differences that may or may not be based on their physical characteristics at birth or after puberty
- General term used for a variety of conditions in which a person is born with a reproductive or sexual anatomy that doesn't seem to fit the typical definitions of male or female. Many do not identify as trans
- A person born with sex characteristics of more than one sex
- Intersex is a variety of differences defined as conditions in chromosomes, hormone levels and/or physical sex which sometimes make classification in “male” and “female” sex categories not immediately apparent
- A person who has male and female sex characteristics
- Includes hormones and chromosome characteristics
- An umbrella term used to describe people whose sex characteristics do not match traditional medicalized definitions of male and female
- A person who has male and female physical sex characteristics
- Take out reference to hermaphrodite.

Sex

- “Sex” should include intersex – is not a fixed category and sex can change over time through medical interventions
- “Biological classification” – legitimizes medical model. Maybe – the “label we are given at birth”
- An assigned classification – imposed by medical system at birth
- Not just biological – also legal – based on physical appearance of external anatomy
- Sex is assigned at birth by a doctor and is based on a visual assessment of external anatomy – include intersex as a third “sex”
- Add intersex – sex, like gender, is a spectrum
- Sex assigned at birth – includes internal reproductive structures, chromosomes, hormone levels and secondary sex characteristics
- Refers to sex assigned at birth, based on external genitalia but also internal reproductive systems, chromosomes, secondary sex characteristics (e.g. breasts, facial hair).

Gender

- Definition reinforces binary notion of gender – need to be legitimate space for gender expression beyond concepts of masculinity and femininity
- The social classification of men and women
- There are genders that do not fit in binary of “male” and “female”
- The social classification of people as men/women or someone who fits neither of those categories
- Gender norms are imposed on us by society
- Gender is also “assigned” – socially assigned based on social norms and expectations
- A mental realization of one’s personal niche in the sexual spectrum, usually defining itself before puberty
- Use “man” or “woman” – masculine and feminine is gender expression
- The social classification of a person as a “man” or “woman”. Gender socialization is often predicated on birth sex – a person is socialized into this identity/role
- Gender is about the cultural categories of “man” and “woman” rather than masculine/feminine – which is more how we express gender
- An aspect of personal/social identity usually ascribed at birth on basis of sex (assigned) – but the “natural” connection is an illusion. The idea that because there are two sexes there have to be two genders
- Should include masculine, feminine, androgynous and outside of these categories – not only binary folk have or express a gender.

Transgender

- Reinforces gender binary and cisnormativity
- “Disgender people” – people who reject “trans” as a term for their gender identity
- Many people who identify as transgender do not have an experience of existing in more than one gender (perhaps from childhood they always knew they were male, though they were classified as female)
- Transgender and transsexual should have same definitions
- Don’t use “internally felt” – makes it seem like it’s all in their head, and not as important as biology (i.e. they are “crazy”)
- Include the notion of “gender fluid, moving through either gender as desired”
- People who in some way do not identify with the gendered expectations of the sex they were assigned at birth
- Also a full spectrum term – like trans
- An umbrella term describing anyone who falls outside of traditional gender categories or norms. Literally means “across gender” and conveys the idea of transcending the boundaries of the gender binary system.

Transsexual

- Remove reference to “biological” – is offensive – puts assigned sex as objectively more valid than one’s gender identity
- Biological sex assigned at birth does not match their perception of their gender
- May or may not undergo medical treatments
- A person who undergoes a medical gender reassignment process to change their birth assigned sex
- Others: they may or may not undergo medical treatments.

Two Spirit

- The term “may encompass spirituality, gender and culture
- Many different terms used in different First Nations cultures.

Cross dresser

- People may cross dress for emotional and psychological well-being or for “other personal reasons”
- Many do it for fun or as a hobby
- Maybe just say “for various reasons”

- A person who, as an expression of gender or simply as a matter of clothing choice, dresses in clothing not socially perceived as congruent or in keeping with the sex they identify as
- A person who dresses in clothing normally associated with a different gender than their own
- Some survey respondents prefer the term gender variant.

Transphobia

- Not just fear and hatred – also unexamined biases
- Irrational fear, hatred and intolerance
- Remove irrational – is subjective – many people noted this. Many people think that their fear and hatred is rational
- Mistrust or discomfort around trans people
- Some people disproportionately targeted – e.g. trans identified people who do sex work, people of colour, trans women.

Other comments

- Definitions (sex and gender) imply male/female and masculine/feminine are the norm and that trans and intersex people are deviants from the norm – othering
- Use “trans” – it is most inclusive (as opposed to transgender)
- Include other cultural terms that refer to other genders (bakla, kathoey, hijra)
- Include genderqueer – people who do not express their gender as male or female; people who may identify as both, neither, beyond or in-between genders
- Include agender
- Gender variant
- Gender fluid
- Transmisogyny
- Don’t put “spectrum” in quotation marks – delegitimizes anyone who is outside the binary
- Include cisgender: having a gender identity that is in keeping with one’s sex assigned at birth
- Include cisgender, cissexual and cissexism in glossary
- Cissexism: the institutional and systemic privileging of cisgender identities and experiences over trans identities and experiences
- Cisnormativity: assumption that it is normal for a person’s gender identity and expression to “match” the sex they were assigned at birth. This assumption overlooks the reality of sex and gender variance – trans people, intersex, and diverse gender expressions by cisgender people as well
- Gender variant/gender non-conforming – people who do not follow gender stereotypes based on the sex they were assigned at birth. For example, “feminine boys” or “masculine girls”
- Using terms like “match” and “align” for birth sex and gender identity reinforces cisnormativity and the gender binary.

2. Lived experience of transgender people

Many of the human rights issues discussed in the OHRC's initial policy over 10 years ago remain relevant today. Research, media reports and human rights case law show that transgender people experience negative stereotypes, discrimination and harassment that have a pervasive and often traumatic impact on many aspects of their daily lives. For trans people, some of the fundamental things that many people take for granted, like jobs, housing and family life, are potentially at risk because they identify as trans or are seen to be trans.

We asked people to tell us their experiences of discrimination and harassment, and to offer ideas on what can be done about it.

a) In what ways do people experience discrimination and/or harassment based on gender identity and gender expression?

General experiences:

- Being able to “pass” within the gender binary – to be recognized by others as a “man” or “woman” according to the gender binary and stereotypical gender norms influences what kind of discrimination a trans person might experience. MTF often face greater discrimination because they have more difficulty “passing” without medical treatments (that are expensive and/or hard to access/not readily available)
- Administrative barriers – gender classification system in documents – legal (birth certificates, passports, OHIP etc.) – ID of sex on official documents does not represent the diversity of gender identities and expressions that exist
- Identification of sex/gender on documents is narrow and doesn't adequately reflect people's gender identity or expression. There should be options on official records other than M/F
- Common themes: not being addressed by chosen name and pronoun, being asked overly invasive questions about body, being forced to use a private bathroom because of others' discomfort (cissexism) (lack of respect)
- Intentional misgendering – being referred to by name/address that is not your gender identity – in some cases, being referred to as “it”
- Trans sex workers and trans women are at high risk for sexual assault – often victims are not taken seriously. They also may be HIV positive, and face stigma because of this, as well as HIV non-disclosure charges
- Discrimination contributes to poverty and lack of housing, then trans people often face further barriers and discrimination when trying to access services (e.g. at a shelter or hospital)
- Verbal harassment, being outed as “trans” against your will
- Trans people stigmatized as different – a “threat” – focus on proof of bodies – e.g. genitalia

- Idea that a trans person must always answer others' overly intrusive questions about their body because others are uncomfortable with how they look (especially re: "passing")
- People who are gender variant/gender queer can face a lot of harassment re: policing of gender norms – people demanding to know; are you a man or a woman?
- Street harassment – policing of gender norms
- Often perceived/assumed to be mentally unstable – “non-human” or “freaks” – or “perverts”
- Gender fluid – can also be the target of homophobic harassment – people assume you are gay, and harass you on that basis
- Bathrooms – often verbal or even physical harassment because you don't “pass” as the gender you are presenting
- Cross-dressers – not feeling safe in bathrooms
- Hate directed towards trans people on the internet – social media, chat rooms
- Discrimination in employment and housing – can be hard to prove – very insidious – social attitudes and exclusion
- In stores – service providers refusing to serve because of gender presentation/judgement
- Sports – sex segregation – creates a lot of issues and barriers for trans people
- Face discrimination in immigration and refugee system – they must prove they are “trans enough” or “count as trans” to qualify for refugee status. Often they may be deported back to countries that actively discriminate, and provide no protection from violence and hate crimes.

Police/security experiences:

- Trans women are often targeted by police – for frisks and stops, and their reports of harassment or sexual harassment are not taken seriously
- Ability to travel is severely affected – harassment by border officials, asked invasive personal questions about their gender and sex.

Youth experiences:

- Youth face harassment and bullying – may not have family support – social groups and support from school needed – washroom issues – and many school activities are gender segregated, perpetuating exclusion and harassment – lack of safe space
- Harassment and discrimination at school/public school – policing of gender norms; subtle cultural exclusion
- Children are forced into gender roles – gender binary – not valued for who they are regardless of what sex they were designated at birth.

Employment experiences:

- Employment – harassment and penalties (including firing) because of trans identity, although it may not always be obviously so (i.e., the employer doesn't say "because you are trans") – lack of understanding, knowledge and awareness; bullying and harassment
- Transition while at work is a very stressful time – harassment, abuse, lack of acceptance – it's very easy for the employer to find a reason to fire the person at this time, and the person has little recourse to show objectively that they were fired because they were trans.

Social services experiences:

- Many social services are not equipped to deal with transphobia, and trans clients seeking services
- No gender neutral washrooms
- Shelters that have dedicated "trans" beds forces people to come out as trans against their will, can make them a target for harassment
- Homeless and women's shelters – exclusion
- Gender segregated services are primary sites of harassment and exclusion: washrooms, jails, shelters, hospitals.

Housing experiences:

- Housing can be difficult to access – a lot of subtle discrimination. Landlords won't rent to you but you don't know why.

Health care experiences:

- Health care – medical model pathologizes trans as a "disorder" – can also be difficult to access transition surgeries and treatments (hormones, surgery etc.)
- Needing to prove you are trans to access services
- Access to health care is a big problem – rural areas (also for all services)
- Doctors refusing to provide treatment – lack of access to hormone treatment
- Access to mental health care that is sensitive and appropriate
- Stigmatized as having mental health issues – people who identify as trans are often pathologized, by the medical world and by others – told they are "confused"
- CAMH clinic is only clinic in Ontario that can approve sex reassignment surgery covered by OHIP – this must change
 - there is a lack of access (geography)
 - their requirements are overly stringent and create barriers
 - feelings of isolation and having to submit oneself to a process that is stigmatizing
 - gate-keeping access to medical procedures to transition based on limited understandings of gender identity and expression.

b) What steps can be taken to prevent and address this discrimination and harassment?

Education/training:

- Public education – campaigns – legal requirements and rights. Show trans people as positive, contributing members of society
- Education in public schools is important – teachers and administrators etc. – ways to make schools supportive and affirming for gender non-conforming youth
- Need to help teachers learn how to create an inclusive school environment around gender issues... gender neutral spaces, words, activities, addressing harassment
- Education for employers on rights and responsibilities
- Training of service providers and employers – from trans people and experts on trans competency and the *Human Rights Code*, respectful treatment by doctors, lawyers, police, teachers, social welfare, housing providers, media, school boards, government and students
- Increase knowledge and awareness in social services, health care system
- Medical doctors/health care system needs better training on trans issues, how to be respectful and provide appropriate care – medical professionals need to be trained to provide appropriate services
 - ensure sex reassignment surgery and hormone therapy available to all who want it, no cost
 - access to top surgery – currently must go out of the province.

Community engagement:

- Engage with community leaders across the province on the issue
- Develop an OHRC stakeholder advisory committee on trans issues
- Have a champion of trans human rights – storytelling and positive stories – humanize the issue
- Bring clinical treatments in line with the Ontario *Human Rights Code*
- Resources need to be made available to support health care and social supports for trans people.

Justice/administration:

- Decriminalize sex work and HIV non-disclosure
- Eliminate requirements for a person to legally change their name to access services and be recognized in their lived gender identity
- Ensure complete ease in changing name and gender in all documents
- All official records, data collection and forms should use inclusive language.

Services:

- Services should have washroom policies to allow trans people to use the bathroom of their lived gender identity, as well as gender neutral washrooms for people in transition or other gender variant people who don't feel comfortable using male or female washrooms
- Because of discrimination face serious issues – poverty and homelessness – need resources to support services to meet the needs of this population while challenging the social norms, etc. that lead to discrimination.

c) Are there other important human rights issues or concepts related to gender identity and gender expression that should be added or changed to improve the policy?

- Policing of gender norms for all people is negative... change the culture
- Education – this should begin at an early age, in the public schools, etc.
 - cissexism is closely linked to transphobia
 - humanize trans people – avoid setting trans or intersex people, or gender fluid people up as “the exception” or “unnatural” – normalize the idea of being trans or transgender
 - policing of gender norms affects cisgender people as well – e.g. being read as too masculine or feminine depending on if you are perceived as a “man” or “woman”
- Sex work and HIV related issues – trans people are over represented and very marginalized
- Sex work should be decriminalized – protect them from violence and harassment – particularly for trans women
- Sex work and HIV are deeply linked in trans communities – discrimination against trans sex workers and people living with HIV particularly affects trans women
- Allow people to change their legal names on documents, don't require people to identify as male or female – blank box
- Allow for gender neutral designation... people don't want to identify as male or female
- Allow people to NOT disclose any information about their sex if they don't want to – when/why would it really be relevant? Often it just provides info that people use to discriminate...
 - make it easier to change names on legal documents – remove onerous requirements such as notes from medical doctors and fees
 - difficulty changing name on identity documents – all at the same time, so that they all match up – can be very difficult
 - for official documents, there should be a way to have undesignated gender; for gender fluid people and intersex people, a blank box to fill in
- Provide gender neutral washrooms everywhere – this is so very important for safety, well-being
- Provide access to health care services across the province

- We need access to services in rural areas, outside the GTA
- Provide access to health care services outside CAMH – more gender identity clinics
- Access and barriers to services – employment, housing, safe access to shelters
- Need to improve access to homeless shelters and women’s shelters – ensure no discrimination
- Social services in general need better training on how to respect trans people, support them etc. – social workers, EMS, hospital staff, police teachers, doctors – mandatory training
- Ensure better education in school system – about gender – need for better sex education in schools
- Universities – ensure they have policies to accommodate students, prevent harassment, deal with identity documents, student housing, etc.
 - ensure universities have policies that address gender identity and gender expression
- Prisons... people should be treated according to their lived identity
- Employers, housing providers, etc. need to be made aware that gender identity and gender expression are prohibited grounds
- Sports organizations should develop inclusive trans policies – need to address discrimination in sports.

3. Supporting people who are transitioning

- Explicit trans inclusion policy – workplace should have a formal policy with guidelines and processes in place before a person ever asks
- Provide guidelines to employees on how to respectfully interact, and make standards of non-harassment and discrimination clear (for example, respectful language, bathroom policies)
- Have a clear policy on transitioning and how to accommodate person during the process
 - this should be widely known, understood by management and staff – and communicated widely
 - ensure policy is well understood and applied consistently – should not depend on any particular staff person or manager
 - leadership – should be championed and communicated at highest levels
- Consult with the person transitioning – they know what they need
- Do not require people to disclose sex/gender and/or trans status – confidentiality
- Work with the person
- To change name on documents – make it simple, no requirements for surgery or for legal name change on other documents (e.g. birth certificate)
- Create a transition plan that includes the following requirements and considerations:
 - Providing gender neutral washrooms
 - Addressing the person as they self-identify – names, pronouns, etc.
 - Providing health benefits

- Training for all staff – education for staff, management, unions, union representatives
- Ensuring people know how to file a complaint of harassment or discrimination
- Education about the *Human Rights Code*, and that the person is exercising their rights
- Creating an easy way to change name, gender, etc. in all identifying documents – no hassles doing this – what changes will be made and when
- Managers' support is crucial
- Key principles of respect, privacy, education
- Providing time off if needed – for medical treatments or other reasons
- Moving the person to another position or area if needed
- Creating a clear washroom policy, and communicating it to everyone
- Providing direction on how to inform clients or students about the transition
- Making the environment welcoming and accommodating
- Designing a communication plan
- Ensuring that health programs/benefits recognize gender reassignment surgery as medically necessary and providing coverage.
- Eliminate barriers to health program access, and recognizing WPATH standards of care as government health policy
- Keeping all medical and personal information confidential
- Referring to the person based on their chosen name – intentional misgendering or not referring to the person based on their chosen name is a form of harassment
- If a person does not identify as male or female, respecting and supporting their right to be referred to as “they.”

4. Accommodation policies

- Explicit trans inclusion policies
- Communicate with the person, ask what they need, work collaboratively with them
- Recognize how a person self-identifies, pronouns and name, etc.
- Allow easy changing of documents for any official purposes – e.g., provide references, employment records, etc. under the person's preferred name
- Provide gender neutral washrooms
- Educate managers and staff
- Treat people with respect, privacy and dignity
- Allow for time off for medical appointments
- Allow the person to move to another area, department or office if needed
- Provide medical coverage
- Apply the concept of “universal design” as per disability movement – to gender identity/gender norms
- Don't ask invasive questions that you would not ask a cisgender person
- Respect, dignity, listen to their needs
- Proactively ensure a culture of respect

- Be sensitive and understanding, but do not overly emphasize their difference with respect to other employees, service users, etc.
- Needs to be a system in place to address any harassment or uncooperation from other employees re: preferred name, access to bathrooms, etc.

5. General suggestions for employers, service and housing providers

- Need to be educated about the new grounds, and their responsibilities
- Employers know about sexual harassment and their responsibilities, they don't know about gender identity and their responsibilities
- Landlords shouldn't ask about sex or gender – it doesn't matter
- Need a discussion of what factors can be considered as part of an accommodation request
- Need clear information about responsibilities and obligations
- How will the shelter system that is sex segregated need to change? What about services that focus on women only? (eg. YWCA?)
- Best practices in accommodation would be helpful
- Sample policies for shelter staff and housing providers would be helpful, and language/terms to use when discussing the issue (for education purposes).

6. Miscellaneous comments

- Importance of broader public education – challenge heteronormative and cisnormative narratives
- Importance of changing media representations
- Need public and private sector leadership and role models
- Need for funding for trans-specific services, housing, employment, etc. and for trans youth.

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ISBN: 978-1-4606-3971-9 (Print)

978-1-4606-3972-6 (HTML)

978-1-4606-3973-3 (PDF)

Available in various formats on request

Also available online: www.ohrc.on.ca

Disponible en français

Endnotes

¹ www.ohrc.on.ca/en/discussion-paper-toward-commission-policy-gender-identity

² *XY v. Ontario (Government and Consumer Services)* 2012 HRTO 726 (CanLII).

³ *Forrester v. Peel (Regional Municipality) Police Services Board et al*, 2006 HRTO 13 (CanLII).

⁴ *Hogan v. Ontario (Health and Long-Term Care)*, 2006 HRTO 32 (CanLII).