



Association of World Citizens
Hong Kong China 2020

GUIDANCE

TO EMPLOYERS

**TO BUILD
TRANS-FRIENDLY
WORKPLACES**

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TRANSCENDENCE ART SHOW : MODELS OF TRUE-SELF

This is a not-for-sale booklet distributed during the Transcendence Art Show. It is intended for business owners, management and leaders who wish to establish a trans-friendly work environment to realize their fullest potential. We cover both cases we have handled and best practices of international employers we have consulted.

Apart from the practical advice, we are also inserting a series of amazing pictures and quotations from local transgender advocates who are dedicated to help build a diversified and inclusive society in HONG KONG.

Our Big Thanks to all of you!



Association of World Citizens HONG KONG CHINA

We are a registered charity in Hong Kong led by transgender people with mission to support transgender people and advance transgender rights in Hong Kong. We work with various stakeholders from corporates, government and non-government organizations, legal bodies, etc to improve all aspects of life of transgender people in Hong Kong before and after their transition.

We are also the producer of the awards winning narrative feature film "A Woman Is A Woman". It is the first feature film in Hong Kong produced by the transgender community. It has been screened all over the world engaging up to 1.3 million audience globally.

For more information, please visit our website at :
<https://www.awomanisawoman.org>

or email us :
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平等機會委員會

EQUAL OPPORTUNITIES COMMISSION

This publication is part of a project “Towards a Transgender Inclusive Society” funded under the Community Participation Funding Programme on Equal Opportunities by the Equal Opportunities Commission (“EOC”). Through the funded projects, the EOC hopes to foster anti-discriminatory attitudes and encourage members of the public to put aside their prejudices, and support and apply the principles of equal opportunities in everyday life.

The transgender community has remained to many people a myth, and there are all sorts of beliefs and misunderstandings about transgender persons. From the models portrayed in this publication, one would see that the transgender community is as diverse as any other communities which identified themselves with other attributes. Transgender persons can contribute to the society just like everyone else if we look beyond their gender expression and focus only on their abilities.

It is widely agreed that, despite developments in new technologies and innovative strategy, human resource still remains the most valuable asset of an organization and comprises an important part in gaining competitive advantage. Hiring right is vital for the sustainability of an organization.

Equality in employment is a basic human right. We hope this publication would serve as a useful reference for employers in creating an inclusive workplace which ensures that employees can work without fear of being discriminated against and contribute their best to the growth and success of the organizations.



CHU Man Kin, Ricky IDS

Chairperson

Equal Opportunities Commission

February 2020



Community Business is pleased to support this Guidance To Employers Who Wish To Build Trans-Friendly Workplaces, which contains useful information for inclusive employers who recognize that embracing transgender inclusion makes good business sense.

Transgender individuals experience discrimination and prejudice on a regular basis, and face barriers in gaining and retaining employment. Generally, there is a lack of awareness around the topic of gender identity and transitioning in business and wider society. This Guidance serves as a credible resource that will help organizations in Hong Kong navigate these issues.

For more than a decade, Community Business has been a thought leader in LGBT+ inclusion, and we are proud of how our work has made a positive impact within the business community across Asia. While there has been much progress already, there is still much more to be done, especially in making workplaces better for transgender employees and in legislation to recognize and protect the rights of the transgender community. We commend the Association of World Citizens Hong Kong China for developing this resource, and encourage organizations of all sizes and from different industries to leverage it to create inclusive workplaces that make transgender employees feel welcome and motivated to perform at their best.



Fern Ngai
Chief Executive Officer
Community Business
February 2020



Zephyrus

I am a fresh medical school graduate. I wish to use male facilities at work but I am still a biological female. I hope I could be treated just like any ordinary man and contribute my expertise to society like anybody else.

INTRODUCTION

This booklet is to facilitate employers who would like to promote equal employment opportunities among all persons, including those with different gender identities, and build trans-friendly workplaces.

For avoidance of doubt, we refer to transgender people as those individuals whose gender identity is different from their gender assigned at birth. These individuals wish to live permanently in the gender opposite to their birth-assigned gender and want to present themselves in this manner at work.

Currently, Hong Kong has no legislation to protect against discrimination of transgender individuals due to gender identity but there has been an increasing awareness in society that these individuals are just like any other cisgender people with no difference in their capabilities. More and more employers are now willing to offer equal employment opportunities to transgender people in the workplace.

However, many employers are inexperienced in terms of how to appropriately serve the needs of their transgender employees so as to harness their fullest potential and contribute their best abilities towards the accomplishment of their companies' business goals and objectives. We hope this booklet could serve as their guide to build trans-friendly workplaces where all transgender employees are treated equally with no differentiation.



Yanki

I am doing architectural planning work. I have not encountered any discrimination at work. I think it is a combination of my positive attitude and my employer having no prejudice towards transgender people. It is a win-win situation for all.

EMPLOYEE SELECTION

Transgender people encounter many barriers in gaining access to and retaining employment, and wish to work in transgender-friendly environments that embrace inclusion and where they can be themselves. Throughout the employee selection process, employers can demonstrate that they welcome transgender candidates and are interested in tapping into the talent that diverse candidates offer.

We recommend that employers apply consistent selection criteria for employees without any reference to their gender identity. This includes type of experience, job experience, educational qualifications, specific skillsets required, personal qualities, etc. We further recommend that these criteria are available to all applicants, published on the employer's employment handbook and/or website and are re-examined from time-to-time to ensure that they are up-to-date and relevant.

Transgender candidates often have discrepancies in documents required during the selection process, such as identification documents certificates and employment references, arising from changes in name, gender, pronouns, etc. In addition, there might be gaps in the candidate's CV. If candidates are asked about these discrepancies or gaps, they may have to disclose that their gender has changed. Non-disclosure might give rise to suspicion or confusion, which might lead to the candidate being rejected.

If a job applicant :

- ◆ possesses credentials showing certificates, diplomas, or similar that reveal their past identity as a person different from their currently presented gender, this should not be treated as an unfavorable condition towards the selection of the employee to fill the job vacancy. Similarly, if the references or certificates of employment from previous employers reveal the same differences, this should also bear no relevance to any of the selection criteria.
- ◆ has a gender expression different from the gender marked on their Hong Kong Identity Card or other personal identity documents, they should be treated equally like any other candidates, if they meet all the requirements of the job selection criteria.



Sho

I am a Japanese teacher. Uninformed colleagues panicked when they saw me in the Men's Room when I first came out at work. I was also denied opening a bank account when I asked to change my title to Mr.

Exceptions :

- ◆ to the above involves employment where the job holder may be required to travel to countries where being transgender could risk being subjected to assault or torture, or is punishable by law. Employers should prioritize the safety and wellbeing of their employees, and must take into consideration the legal framework and cultural norms of the countries that employees may need to travel to.
- ◆ another exception involves working in a domestic environment where the employee is required to live in the employer's home. The employer may exercise judgment to determine who may enter or live in their house, after considering all factors including both the rights of the employer and the employee.

We recommend employers to train both their hiring managers and human resources personnel to avoid acts of discrimination while handling job applications including informal enquiries prior to official applications. For avoidance of potential discrimination, we recommend the following practices :

- ◆ Employers should provide diversity and inclusion training to both their hiring managers and human resources personnel to equip them with an understanding towards transgenderism. This will enable them to conduct interviews in a professional and informed manner, and to mitigate unconscious bias and discrimination during the employee selection process, from handling job applications including informal enquiries, to the interview process.
- ◆ Recruitment advertisements should specify that the organization is an equal opportunity employer with no prejudice against any persons including those with different gender identity. In addition, the language used should be gender-sensitive or gender-neutral, and therefore inclusive of transgender candidates.
- ◆ For internal recruitment where vacancies are to be filled by an internal transfer or promotion from a lower grade, inclusive language should be used.



Pinky

I first came out in Australia with no issues. I am now back in Hong Kong studying Fashion Image Design. My parents felt ashamed facing their neighbors and relatives with a son suddenly becoming a daughter so I have to live with my grandparents.

- ◆ During the interview process, focus should be on fulfillment of objective job selection criteria only. No questions should be raised that may influence the outcome of the interview due to different gender identity.
- ◆ Supervisors of recruiting managers should also be trained not to put any pressure on their subordinates to screen out candidates with different gender identity.
- ◆ Complaint channels should be available to job applicants so that any potential complaints could be handled in a timely and efficient manner.
- ◆ Where recruitment is done through employment agencies or executive search firms, employers should select providers that are aligned with their own equal opportunity practices and commitment to diversity and inclusion. Employers should communicate their equal opportunity practices to them, and even provide training if needed.

To improve your understanding towards transgender people, the Association of World Citizens Hong Kong China has worked with Radio Television Hong Kong to produce a series of broadcasting programs called “Companionship - Understanding Transgenderism”. It consists of 13 episodes, each portraying different issues faced by transgender people in Hong Kong from multiple perspectives. The program is in Cantonese and could be accessed from the website:



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HERE**

https://www.rthk.hk/radio/pth/programme/g0911_transgenderism

The program is in Cantonese



Ming

I am studying medicine in university. I quit school, went to the United Kingdom for one year and returned as female to join another class of students to avoid confusion. Even with this thoughtful plan, I am still affected by the systemic issues and rigid administrative policies of the school authority.

TERMS AND CONDITIONS OF EMPLOYMENT

All employees including those with different gender identity should be offered the same compensation to carry out the same job duties as laid down in the respective job descriptions. They should have access to benefits, facilities, or services commensurate with their rank, seniority, duties and experience.

For an employee with different gender identity and has successfully transitioned from their gender assigned at birth to their desired gender, the employer should protect the privacy of the employee and do not disclose this to other employees unless the employee has specifically requested for such disclosure or the employer has requested for such which is also agreed by the employee.

It is important for employers to develop transition guidelines to support transgender employees, and to have these in place proactively. For an employee deciding to transition from their gender assigned at birth to their desired gender, their employer should provide all necessary support to the employee to allow for a smooth transition, including but not limited to any of the following where appropriate:

- ◆ Allow for the change of title and pronouns used to address the employee to those preferred by them.
- ◆ Allow for the change of grooming, dress code or uniform to those desired by them.
- ◆ Allow for the change of name to a new name corresponding to the gender they have chosen.
- ◆ Re-issue the staff identity card of the employee corresponding to their new name and new appearance.
- ◆ Re-print business cards of the employee with the new identity.
- ◆ Change the email address of the employee to match their new name.
- ◆ Update all personnel records of the employee to reflect these changes.



Mimi

I was asked to sign a mutually agreed separation agreement after I came out at work. I was also asked to pay one-year rent in advance for my flat only because the gender marker on my ID Card did not match my appearance. After my gender-affirming surgery, I received no job offers.

- ◆ Update all internet, intranet and other internal manual and electronic records of the employee to reflect these changes.
- ◆ Announce the commencement date of the transition of the employee to all staff and external parties, including customers, emphasizing the full support from the employer and requesting the same support from all other employees and external parties.

Besides, the employer should also offer the following to all transgender employees irrespective of their transition status :

- ◆ Full access to gender specific facilities of their choice including washrooms, changing rooms, etc and request all employees to respect their choices.
- ◆ Full access to join staff clubs, activities, functions, etc that are segregated by gender to their gender of choice and request all employees to respect their choices
- ◆ Sick leave or other leave benefits while seeking specialist consultations and treatments including surgery that are essential for successful transition or post-transition care.

Furthermore, the employer should consider upgrading their medical insurance scheme to cover expenses of both out-patient and in-patient treatments essential for successful transition and post-transition care of all transgender employees

Lastly, the employer should make it mandatory for all employees to attend training and refreshment training from-time-to-time to ensure that all employees understand and continue to understand what transgenderism is, respect transgender individuals' rights and dignity as human beings, free from bullying, discrimination, harassment, teasing and attack of any form at work. For individual employees who are unable to comply with these requirements for whatever reasons, offer individual consultation or counselling sessions with them to address or alleviate their concerns. Disciplinary actions may also be considered if appropriate.



Liam

I am a social science student. I came out during my secondary school days. I was not fully understood by my schoolmates and experienced a lot of teasing from them. I believe transgender people are both respectful and beautiful.

PROMOTION, POSTING AND TRAINING

All employees should be entitled to the same opportunities for promotion, posting and training commensurate with their ability, rank, seniority and experience. The employer should ensure that the system is non-discriminatory against employees with different gender identity.

For any internal appraisal system that exists, the employer should examine all criteria of assessment to ensure that they are based on merits only. The Balanced Scorecard is a good and objective means to ensure that the performance is measurable with the appropriate weighting applied depending on the pre-set goals and job descriptions of the employees.

Selection for promotion of an employee should be based on the same objective criteria as in selecting a new employee to fill the same role to ensure that the assessment is based on the employee's abilities and qualities with no reference to their gender identity. If any such criteria are found to be discriminatory, they should be updated to ensure that they are fair and just.

Where :

- ◆ opportunities for promotion, posting, or training arise, all eligible employees should be informed of the conditions and procedures for application.
- ◆ promotion, posting, or training is by nomination, managers should ensure that all suitable candidates are considered without overlooking those with different gender identity.

If complaints are received from other employees with respect to a promotion, posting, or training, managers should handle these complaints objectively with no prejudice or discriminatory practice. Records for making such decisions should be maintained for a reasonable period-of-time to ensure timely and efficient handling of these complaints.



Julian

I am a freelance visual development artist. My parents are strictly against deviant gender expressions, making me feel empty, upset and aimless. I want to be true to myself so I moved away from home and started my freelance career.

DISMISSAL, REDUNDANCY AND DISCIPLINARY ACTION

Gender identity should never be a ground for dismissal, redundancy or disciplinary action. Intentional lowering of the appraisal rating of an employee making it an excuse to exercise any of these actions is a discriminatory practice. If part of the workforce is required to take no pay leave or part-time working due to prevailing economic conditions that affect the financial performance of the employer, gender identity should never be a factor to select such employees.

When voluntary redundancy packages are provided by the employer, the conditions to access voluntary redundancy benefits should be made available to all employees on equal terms irrespective of their gender identity.

Employers should have systems to handle complaints arisen from employees who feel that they are unfairly laid off or disciplined. It is important to investigate all complaints by transgender employees and take appropriate remedial actions. Transgender people face discrimination and harassment on a regular basis. Organization should take their complaints seriously.

We also produced an award winning movie "A Woman Is A Woman" which is also the first film in Hong Kong produced and acted by transgender people. The film has been shown globally and received great feedback from the audience. It has also received an audience award and a best narrative feature film award in two international film festivals. The film is in Cantonese with subtitles in English and Traditional Chinese.

To find or host a screening, please visit :



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<https://www.awomanisawoman.org/nscreening>



Janice

I am now a post-secondary student. I have experienced a lot of bullying as a transgender person the worst being faced with brutal strangers using a pair of scissors trying to cut my long hair.

OTHER SUPPORTIVE PROCEDURES

The Human Resources Department should maintain a grievance handling system with transparent procedures. All employees should be aware of the existence of these procedures and how they could log their complaints with their respective employers. Staff induction programs should always cover this when any new staff start their employment.

If ex-employees successfully transitioning to their desired gender come back and ask for modifications to their employment certificates and/or references to reflect their new titles, new names and new pronouns of choice, employers should agree to make these alterations to them to protect their privacy.

Employers should nominate an executive sponsor who will take a lead role to reinforce their commitment towards equal opportunity employment including those with different gender identity. The executive sponsor should be visible as a person who will always speak up and use their influence to promote equal opportunity employment including those with different gender identity.

Employers should also encourage their employees to build internal networks dedicated to promote diversity and inclusion within the workplace, provide mutual support and to connect with other similar employee networks in town. Funds should be allocated to these internal networks to organize activities to raise awareness and promote diversity and inclusion at the workplace.

Employers should make all employees aware that while Hong Kong has no anti-discrimination legislation for gender identity in place, transgender persons suffering from discrimination at work could seek limited protection of their rights through the Disabilities Discrimination Ordinance. Employees aggrieved by discriminatory treatment in the workplace could raise complaints to the Equal Opportunities Commission or to the Office of the Ombudsman if they are civil servants, or directly to court should they experience unequal treatment at work.



Hong

I am a car park assistant. I always think I am a man. But most of my workmates couldn't tolerate a person with a female ID card having a male gender expression. They are impolite, rude and always shout at me.

Employers have vicarious responsibility towards acts of all employees which are discriminatory towards other employees with different gender identity. Protecting the rights of employees with different gender identity will also protect the reputation of the employer as well.

Under the current context of the Hong Kong Disability Discrimination Ordinance, a limited protection is available to transgender individuals who have proof of gender dysphoria by a qualified specialist either from the public or private sector. Item “g” of the definition of a disability under the Hong Kong Disabilities Discrimination Ordinance is as follows:

A disorder, illness, or disease that affects a person’s thought processes, perception of reality, emotions or judgment or that results in disturbed behavior.

In a sense, a person diagnosed with gender dysphoria or gender identity disorder falls under the above definition of disability and could therefore seek limited protection in the event of any discrimination encountered at work or any other areas covered by the ordinance.

Employees who suspect that they have been discriminated at work could seek assistance from us. We will help them assess the situation and assist to take remedial actions where appropriate. Please use the same email address at the Conclusion section of this booklet to contact us.

For more information about the movie “A Woman Is A Woman”, please refer to the following website :



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<https://www.awomanisawoman.org>



Alice

I am an engineer and a Christian. I came out at work but my company did not offer me access to female facilities. My salary has also not been adjusted for years. My church thought I was against the wish of God and ousted me.

CONCLUSION

It is of fundamental importance for organizations to have policies to foster an inclusive workplace culture for all employees. A strong equal opportunity policy should state clearly that the organization seeks to treat all employees with dignity and respect, making specific reference to gender identity and expression, and ensure that decisions about any aspects of employment are based on merit. The policy should state clearly that discrimination will not be tolerated, and giving specific, though not limiting, examples of behavior that are unacceptable.

Creating a discrimination-free environment and an inclusive culture at the workplace is a new subject which may not be easily grasped even by the most experienced business leaders, people managers and human resources professionals. Hong Kong in its current state still has a long way to go to improve the conditions of employment for transgender employees. If employers are willing to take the lead and move this crucial step forward, life for transgender people in the workplace will substantially improve. They are, after all, people with equal capabilities and are not inferior to anybody else, and deserve equal treatment. Hong Kong will benefit if all transgender people are able to contribute their worth for the betterment of our society.

The Association of World Citizens Hong Kong China is a leading organization in Hong Kong committed to advance the rights of transgender people in Hong Kong. We are available for consultation by any interested employers to help them build an inclusive workplace for transgender employees.

For any follow up actions needed by any employers, please contact us by sending an email to the following address:

awchklgbti@gmail.com

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