



# PROTOCOL

## Gender Identity and Expression Protocol

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## 1. Background

The City of Brampton is committed to providing a safe, respectful, and inclusive environment for all employees. We are committed to the inclusion and respect of all people, including members of the LGBTQI2S community and individuals with various gender identities and expressions. The City has a legal and moral responsibility to maintain work environments that are free from discrimination and harassment of employees, and to promote a culture of inclusion and embracing diversity.

The City is committed to enhancing equity and inclusion within the workplace, and to promote awareness of our human rights obligations. In accordance with the Ontario *Human Rights Code* (the Code), the City recognizes the dignity and worth of every person such that each employee feels a part of our workplace and is able to contribute fully without harassment or discrimination.

The City has developed this Protocol to raise awareness and understanding of our shared intention to promote the dignity, respect, equitable, and fair treatment of all persons who work at the City.

There are a number of policies and SOPs that form the framework for the City's legislative requirements and support the City's commitment to provide a safe, respectful and inclusive environment. This Protocol should be read in conjunction with the following documents:

- Employee Code of Conduct
- DNA and Corporate Values
- Respectful Workplace Policy and applicable SOPs
- Workplace Accommodation Policy
- Recruiting and Retaining Top Talent Policy and applicable SOPs
- Workplace Violence Prevention Policy
- Issue Resolution Process
- Dress Code Guideline

## 2. Purpose

The purpose of this Protocol is to provide employees and people leaders with clear requirements regarding attitudes, actions and behaviours that are inclusive and respectful of all gender identities and expressions.

## 3. Application and Scope

All employees at the City are required to understand and abide by this Protocol as well as all related City policies and procedures. For the purposes of this Protocol, "all employees" includes but is not limited to: full and part time regular, temporary and contract employees. Additionally, elected officials, students, interns, and volunteers must also follow this Protocol.

## **4. Principles of Good Accommodation for Gender Identity and Gender Expression**

Good accommodation for gender identity and gender expression is individualized, respects privacy, promotes integration and full participation, and is consistent with inclusive design whenever possible.

The City provides individualized accommodation. For example, where some trans employees may request that Management communicate a particular message about the use of pronouns to their team in the workplace, other trans employees may request the opportunity to communicate with their team directly about a change in pronoun.

Wherever possible, the City provides barrier-free inclusive design upfront. City forms should be reviewed and edited for inclusivity at the design stage, negating the need for people to request changes that better accommodate gender identity and expression once the form is in use.

## **5. Mandatory Requirements**

### **5.1 Privacy and Confidentiality**

- a) All employees of The City are entitled to privacy and confidentiality within the limits of the law. In accordance with the Municipal Freedom of Information and Protection of Privacy Act (MFIPPA) and the Personal Health Information Protection Act (PHIPA), the City has a legal obligation to protect data gathered and to ensure that information collected remains secure and confidential;
- b) Information must only be collected where there is a bona fide reason to do so;
- c) Information pertaining to trans and gender non-conforming person's gender identity must remain confidential, unless the person provides consent for information to be released. For example, prior to the first day that a transitioning employee will be publically expressing their gender at work, the employee may provide written consent to a Manager or a representative from Human Resources to disclose some information to the employee's colleagues to confirm the City's support for the employee, increase understanding, and facilitate the transition. A person's medical history, particularly as it relates to transitioning, as well as any information regarding their gender identity must remain confidential. Where information may be required for accommodation or to otherwise meet the needs of the person, only relevant information should be shared and be limited to only those individuals with a need to know who are directly involved in the process;
- d) All employee information is to be kept in Human Resources in a secure filing location as per Policy 6.3.0 Employee File of Reference. Information

must be securely housed and accessible only by those with a legitimate need to do so; and,

- e) Disclosure of trans or gender non-conforming person's gender identity or the extent of their transition without their knowledge and consent is prohibited and considered to be a form of harassment and discrimination under the Ontario *Human Rights Code*.

## 5.2 Roles and Responsibilities

Creating a culture of inclusion is a multi-party process and shared responsibility. There may be a requirement to support workplace accommodations to foster this culture. Everyone must work together cooperatively and respectfully to explore and implement appropriate accommodation solutions up to the point of undue hardship.

### Individuals Requiring Accommodation (including job applicants):

- Communicate the need for accommodation;
- Assist in identifying potential accommodation options;
- Provide information relevant to their request;
- Co-operate and be flexible in seeking accommodation solutions; and,
- Accept an offer of accommodation that meets the needs, even if it is not the preferred accommodation option.

### Management and Supervisors:

- Ensure all employees and job applicants are treated with respect and dignity by fostering an inclusive and respectful workplace;
- Collect the information necessary to understand the nature of the request for accommodation; and,
- Respond to requests for accommodation in a timely, confidential and sensitive manner.

### Human Resources:

- Provide advice to management and employees regarding their rights and responsibilities on accommodation; and,
- Provide advice to management throughout the accommodation process.

### Unions:

- Take an active role as partners in the accommodation process;
- Share joint responsibility with the City to meet accommodation obligations; and,
- Support accommodation measures and consider flexibility of collective agreement provisions where required to implement individual accommodation.

### 5.3 Discrimination and Harassment Free Workplace

Harassment of any person based on their gender identity or gender expression, including a challenge to the person's right to access a washroom/change room space because of their gender identity or gender expression, is unacceptable. As per the Respectful Workplace Policy, any employee found to be engaged in harassing or discriminating behaviour will be subject to discipline up to and including dismissal. Opportunities for employee education may also be used in appropriate situations.

### 5.4 Identification, Language, and Administrative Systems

- a) Everyone has the right to define their own gender. Trans persons should be recognized based on how they identify and communicate their gender, without reference to anatomy or whether their identity documents reflect their gender identity.
- b) All persons must use the name and pronoun that individuals indicate are correct.
- c) Employees have a right to update their administrative record wherever possible to match their gender identity should they wish to do so. Where a person's legal name does not match the employee's requested name, the requested name, will be used on all documentation, such as e-mail, phone directory, identification badge, etc., except where records must match the legal name. Upon written or electronic notification to Human Resources, an employee can change their name for all payroll documentation and this name change will be communicated with the City's benefit provider. Employees are trusted to make name and/or gender changes directly with other organizations, such as OMERS, Canada Revenue Agency, various provincial government agencies, etc.
- d) Former employees, who have changed their name and provided proof in compliance with Section 9 of the *Change of Name Act (Ontario)*, are entitled to have the name change reflected on any record or document that mentions the person's name.
- e) All city employees are expected to use inclusive language within the workplace and during interactions with the public. Examples of this include using gender neutral language when gender specific language is unnecessary, for example using "people" instead of "men and women," "esteemed guests" instead of "ladies and gentlemen," or "they" instead of "he" and "she."

### 5.5 Collecting Data on Sex and Gender

- a) Data on sex and gender is often collected when there is little or no need to know in order to provide a product or service. Before collecting data on sex or gender, thought should be given as to whether there is a legitimate need or a legal requirement to solicit this type of data.

Where a legitimate need or legal requirement to collect sex and gender data has been identified, the Corporation will begin, wherever it is possible, to make available the option for people to self-identify in categories that go beyond the two categories of “female” and “male”, e.g. provide an open text box to allow employees to self-identify.

## **6. Dress Code**

All employees are entitled to choose clothing that complies with company guidelines on appropriate dress regardless of the gendered nature of the clothing. If employees are required to wear uniforms, they will be able to choose from any combination of options available according to what makes them most comfortable.

## **7. Washrooms and Change Facilities**

- a) The City will make all efforts to ensure that all employees can use washrooms with safety, privacy and dignity, regardless of their gender identity or gender expression.
- b) All persons have the right to access washroom and change facilities based on the one they feel is most comfortable for them.
- c) Where available, the City will provide an all-gender, single stall washroom/change room for use by any persons who desire it. The use of all-gender, single-stall washroom/change room should be an option that people may choose and should not be imposed upon an individual because of the individual’s perceived gender identity.
- d) Upon implementation of this Protocol, the Corporation will begin incorporating signage that will not utilize images of people, so as to avoid gender stereotyping, but shall instead indicate which fixtures exist within the facility. Existing Corporate facilities will be retrofitted as the opportunity becomes reasonably available or as a need is identified.
- e) If any person has a bona fide reason to request additional privacy but private change room facilities are unavailable, accommodation will be provided on an individual basis to address the individual’s needs. This may include such things as providing access to an office or a restricted area, implementing a change room schedule, redesigning existing facilities, and creating a private area within a public area (i.e. separating an area with a curtain).
- f) All persons have the right to use City washroom and change room facilities without harassment, sexual harassment, voyeurism, and physical and sexual assault. In addition to any legal sanctions that these behaviours may result in, employees engaging in these behaviours are subject to disciplinary action.

## 8. Employee Gender Transition

- a) Transitioning employees are entitled to express their gender identity and gender expression without fear of discrimination, harassment, or reprisal.
- b) The City is supportive of employees who decide to transition. The City will provide appropriate support and accommodation to employees during their transition process upon an employee's request.
- c) The City's Human Resources Division and the employee's Manager will provide resources and support to the employee once the employee makes them aware of the transition, and throughout, the transitioning process.
- d) The City will work with the employee and the employee's union representative (as applicable) to develop an individualized workplace gender transition accommodation plan to identify and address accommodation steps that may be required in the workplace to support the employee's transition. This plan may include timelines and dates for when the employee will be addressed by their new name and pronoun (if any); when employment records will be changed; when and how other employees will be informed of the change; and how management and the union will otherwise support the transitioning employee.

## 9. Support for Employees

- a) The City's Human Resources Division and the employee's Manager can provide employees with information, resources and support as required in order to provide high quality services to all persons and maintain an inclusive workplace environment. Employees also have access to on-line employee supports.
- b) The City's Employee and Family Assistance Program can provide confidential support as well. Additional external supports can be found [here](#) (internal).

## 10. Reporting and Addressing Harassment and Discrimination

The process for reporting complaints of harassment and discrimination is found in the [Addressing Harassment and Discrimination Standard Operating Procedure](#) (internal). As per the [Respectful Workplace Policy](#), any employee found to be engaged in harassing or discriminating behaviour will be subject to discipline up to and including dismissal.

## 11. Definitions

The definitions identified below are based primarily on the Ontario Human Rights Commission's (OHRC) Policy on Gender Identity and Gender Expression.

The City recognizes that there may be some contention around these definitions within various communities, and has adopted those from the OHRC for alignment and consistency. This list of definitions is not exhaustive, and is not intended to be a comprehensive educational review. Employees who would like more information are encouraged to consult the employee resources, or to contact Human Resources.

**Sex:** The classification of people as male, female or intersex. Sex is usually assigned at birth and is based on an assessment of a person's reproductive systems, hormones, chromosomes and other physical characteristics. Intersex is a general term used for a variety of conditions in which a person is born with a mix of male and female biological traits that doesn't seem to fit the typical definitions of male or female.

**Gender identity:** Each person's internal and individual experience of gender. It is how a person names their gender, so it is a person's sense of being a woman, a man, both, neither, or anywhere along the gender spectrum (non-binary). A person's gender identity may be the same as or different from their birth-assigned sex.

For most people, their sex and gender identity align. For some, it does not. A person may be born male but identify as a woman, or born female but identify as a man. Other people may identify outside the categories of woman/man, or may see their gender identity as fluid and moving between different genders at different times in their life. Agender people do not identify with any gender.

**Gender expression:** How a person publicly presents or expresses their gender. This can include behaviour and outward appearance such as dress, hair, make-up, body language and voice. A person's chosen name and pronoun are also common ways people express their gender. Others perceive a person's gender through these attributes. Gender expression is different from gender identity and a person's gender expression does not always match their gender identity.

All people, regardless of their gender identity, have a gender expression and they may express it in any number of ways. For trans people, their chosen name, preferred pronoun and apparel are common ways they express their gender. People who are trans may also take medically supportive steps to align their body with their gender identity.

**Trans or transgender:** An umbrella term that describes people with diverse gender identities and gender expressions that do not conform to

stereotypical ideas about what it means to be a girl/woman or boy/man in society. “Trans” can mean transcending beyond, existing between, or crossing over the gender spectrum. It includes but is not limited to people who identify as transgender, transsexual, cross dressers or gender non-conforming (gender variant or gender queer).

“Trans” includes people whose gender identity is different from the gender associated with their birth-assigned sex. Trans people may or may not undergo medically supportive treatments, such as hormone therapy and a range of surgical procedures, to align their bodies with their internally felt gender identity.

People who have transitioned from one gender to another may simply identify as female or male. Others may also identify as trans, as a trans woman or a trans man. Some people may identify as trans and not use the labels “female” or “male.” Others may identify as existing between male and female or in different ways beyond the binary of male/female.

Trans people may identify their gender in many ways. There is no single or universal experience of what it means to be trans. As a result, different trans people face distinct forms of discrimination in society, and this may relate to whether they identify as male, female, a person with a trans history, a person in the process of transitioning, a trans man, trans woman, transsexual, or gender non-conforming.

**Gender non-conforming/gender variant/gender queer:[1]  
[2]**

Individuals who do not follow gender stereotypes based on the sex they were assigned at birth. They may identify and express themselves as “feminine men” or “masculine women” or as androgynous, outside of the categories “boy/man” and “girl/woman.” People who are gender non-conforming may or may not identify as trans.

**Trans man and trans woman:**

A person whose sex assigned at birth is “female” and identifies as a man may also identify as a trans man (female-to-male FTM). A person whose sex assigned at birth is “male” and identifies as a woman may also identify as a trans woman (male-to-female MTF).

**Transitioning:**

Refers to a host of activities that some trans people may pursue to affirm their gender identity. This may include changes to their name, sex designation, dress, the use of specific pronouns, and possibly medically supportive treatments such as hormone therapy, sex-reassignment

surgery or other procedures. There is no checklist or average time for a transition process, and no universal goal or endpoint. Each person decides what meets their needs.

**“Lived” gender identity:** The gender a person internally feels (“gender identity” along the gender spectrum) and publicly expresses (“gender expression”) in their daily life including at work, while shopping or accessing other services, in their housing environment or in the broader community.

**Sexual orientation and gender identity are different:** Sexual orientation is interpersonal and describes human sexuality, in terms of who we are physically, emotionally, and/or romantically attracted to, from gay and lesbian to bisexual and heterosexual orientations.[3] A person’s gender identity is fundamentally different from and not related to their sexual orientation. Because a person identifies as trans does not predict or reveal anything about their sexual orientation. A trans person may identify as gay, lesbian, queer, straight or bisexual, just as people who do not identify as trans. A person’s gender expression is totally separate from their sexual orientation as well.

**Two-Spirit:** A term used exclusively by Indigenous people to describe from a cultural perspective people who are gay, lesbian, bisexual, trans or intersex. It is used to capture a concept that exists in many different Indigenous cultures and languages. For some, the term Two-Spirit describes a societal and spiritual role that people played within traditional societies, such as: mediators, keepers of certain ceremonies, transcending accepted roles of men and women, and filling a role as an established middle gender.[4] The term “Two Spirit” can only be used by people who are Indigenous.

**Cisgender and cisnormativity:** Most people are “cisgender” (not trans); that is, their gender identity is in line with or “matches” the sex they were assigned at birth. Cisnormativity (“cis” meaning “the same as”) refers to the commonplace assumption that all people are cisgender and that everyone accepts this as “the norm.” The term is used to describe prejudice against trans people that is less overt or direct and more widespread or systemic in society, organizations and institutions. This form of systemic prejudice may even be unintentional and unrecognized by the people or organizations responsible.

**Transphobia:** The aversion to, fear or hatred or intolerance of trans people and communities. Like other prejudices, it is based on stereotypes and misconceptions that are used to justify

discrimination, harassment and violence toward trans people.

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[1] Gender queer: “those who identify their gender outside of traditional gender categories and may not identify as either trans men or trans women. Some gender queer individuals pursue medical transition options and some do not.” Pyne, *supra* note 34, at 9.

[2] While the OHRC combines the terms Gender non-conforming/gender variant/gender queer in their definitions, the City of Brampton recognizes that these terms are unique, different and not synonymous.

[3] Sexual orientation is also a protected ground under the *Code*

[4] 2-Spirited People of the 1st Nations, *Our Relatives Said: A Wise Practices Guide* (2008) online: 2-Spirited People of the 1st Nations, [www.2spirits.com](http://www.2spirits.com).

## 12. References and Resources

Please note that some of the items listed below may not be publicly available.

### External references

- [Ontario Human Rights Code](#)

### References to related bylaws, Council policies, and administrative directives, procedures

- [Employee Code of Conduct](#)
- [Our DNA](#)
- [Respectful Workplace Policy](#)
- [Addressing Harassment and Discrimination Standard Operating Procedure](#)
- [Workplace Accommodation Policy](#)
- [Recruiting and Retaining Top Talent Policy](#) and applicable SOPs
- [Workplace Violence Policy](#)
- [Issue Resolution Process](#)

## 13. Revision History

| Date       | Description  |
|------------|--|
| 2019/02/07 | New. Approved by CLT on February 7 <sup>th</sup> 2019. |
| 2022/03/01 | Next Scheduled Review                                  |