



# Press For Change

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## Trans Equality Monitoring

### Introduction

Increasingly, organisations are wanting to monitor the number of trans people among their staff or client group. They feel this is becoming necessary in order to show that they are complying with new equalities law such as the Public Sector Gender Duty.

However, the monitoring of trans people is not a legal requirement and, where undertaken, does have certain pitfalls which need to be avoided and concepts that need to be understood.

This document is intended to point these out and ensure that organisations implement best practice methods in monitoring.

### Existing Equality Policy

Before implementing any sort of monitoring, an organisation must already have in place a full equality and anti-harassment policy which specifically includes protection from discrimination and harassment or bullying on the grounds of gender identity or gender presentation. Without such a policy, trans people will not have the confidence to answer questions on what, to them, are the most intimate aspects of their lives.

Yet this alone is not sufficient. There needs to be clear leadership from the top of the organisation which demonstrates the commitment to equality in all areas of the business. By inclusion of minorities within a wide range of business policies, demonstrating that they are serious about equality.

### The Purpose of Monitoring

Monitoring should only be carried out where there is a clear purpose to the data collection. Trans people will not 'out' themselves unless they can see some demonstrable benefit to themselves and their peers.

It must also be clear how the information is to be stored and reported. Data must not be stored in personnel files or in any other way that identifies the individual. For this reason, extreme care must be taken in cross-collating results with other categorisation criteria. For instance, reporting that an organisation of 5,000 staff includes two trans people would be fine but reporting that this broke down to include one in, say, the finance department would put their privacy at risk if the department had only a small number of people.

## When To Monitor

Monitoring should be carried out on a regular basis in order to obtain trends.

There are some occasions when monitoring for trans people should never be undertaken, such as during the recruitment process. Even after a decision on employment is taken, any monitoring data should remain anonymous. The experience of trans people is that obtaining employment can be difficult enough and anything which puts the spectre of asking about trans status into the recruitment process is likely to drive trans people away from seeking to join the organisation.

Great care should be taken before customers, clients or service users are subject to monitoring for trans status. As stated above, one of the fundamental requirements for monitoring should be that there is protection for the group being monitored and that the monitoring allows an evaluation of the protections in place. With the bringing into law of protection against discrimination against a subset of trans people in the provision of goods, services, facilities and housing, providers may be justified in monitoring for trans status.

However, with the lack of protection in certain areas such as education, indirect discrimination or protection for those perceived to be trans or associated with trans people, Press For Change are not yet recommending monitoring on a wide scale.

## Trans Monitoring and Privacy

We would not advise the monitoring of trans people if the act of monitoring makes them identifiable. There is a high danger of contravening s.22 of the Gender Recognition Act 2004 if subjects are identifiable.

Therefore monitoring should not be carried out on small populations as, even when the results are anonymised, a single positive in a small group may lead to inadvertent disclosure.

Trans people are a widely discriminated against group who guard their privacy jealously – and consequently, even if monitoring is anonymous, this could lead to massive under reporting. In a 2006 survey only 68% of trans people said they would give information for monitoring purposes – but then only if the information was anonymous and confidential and the service in question was understood to be LGBT friendly (Browne & Lim 2008). This under reporting could undermine the reason for monitoring, and even worse, may imply there is no need for protection from discrimination or harassment.

Questions on gender identity must always be optional and use language that trans people find acceptable.

## Trans as a 'Third Sex'

One suggestion for asking people if they are trans is to give it as an alternative to a male/female question:

Male       Female       Transgender



Most trans people do not consider themselves to be a 'third sex' and are likely to take offence at this suggestion.

## Trans as a Sexual Orientation

Some have suggested that trans people are a form of sexuality:

Heterosexual    Lesbian    Gay    Bisexual    Transgender



Transgender is not a form of sexual identity. Anyone who knows anything about being trans understands that, although they have many equality and rights issues in common with LGB people and form LGBT organisations to pursue common aims, being trans has nothing to do with who you are attracted to. Trans people can be Gay/Lesbian, Bisexual, Asexual, as well as Heterosexual just like any other individual.

## Trans as Trans

Questions on gender identity should always be in their own section.

Different trans people describe themselves with different labels and what one person adopts happily offends another. For this reason, we recommend the use of descriptive questions that do not rely on a particular terminological adherence:

Is your gender identity the same as the gender you were assigned at birth?

Yes    No



Do you live and work full time in the gender role opposite to that assigned at birth?

Yes    No



Do you feel able to discuss your gender identity with colleagues at work?

Yes    No    With some people, but not all



Are you in receipt of a Gender Recognition Certificate (GRC)

Yes    No



There are many reasons why a trans person may not have acquired a GRC. To ask this question is to suggest that you will discriminate against those that have not had their gender identity recognised in law. Those that have will consider the question to be against the spirit of the Gender Recognition Act, whilst those who have not will be made to feel like second class trans people. Trans people are not obligated to say whether they have obtained a GRC, as the basis of the Act is to afford privacy of their prior history and status. Best practice is to treat all trans people as though they have a GRC.

## Population Effects and Scope of Monitoring

The effects of a small population size have already been touched upon as a possible method whereby a single positive response inadvertently ‘outs’ the respondent. However there is a more likely outcome which is that there will be a zero response. This may be because the trans people in the organisation do not feel confident enough to respond or because the sample size is too small to contain any trans people.

Even when the population size is sufficiently large to ameliorate the likelihood of a trans person being ‘outed’, care must be taken that in published reports the population is not then subdivided into smaller populations that would lead to trans people being identifiable. For example, in a population of 2000, one trans person may not stand out but if the population is then sub-divided by pay grade or department, their identity may become obvious.

This should not be taken as a reason to do nothing in respect of protections or policies in support of trans people. Monitoring should always be used as a ‘shield’, never a ‘sword’: a positive result should be the basis for doing some act to better support trans people but, because of the privacy and fear issues, a negative should never be the basis for deliberate actions to exclude or ignore trans people in the belief that none are in the organisation.

Beyond this point it is worth noting that public sector employers have a duty to promote equality on the basis of gender, a duty which includes trans people within the realm of employment and vocational training. Employers may therefore wish to enhance their monitoring, not only by monitoring trans people’s presence, but by monitoring the attitudes of all staff to trans people who may be in their midst or who they may come into contact with as customers – monitoring not the minority but the majority who may cause the problems experienced by the minority. In all cases where such an approach is taken this should always be done anonymously.

## Further Reading

Browne, K. and Lim J. (2008) ‘Count Me In Too – Trans People: Additional Findings Report’, Spectrum and the University of Brighton, Online at: [http://www.spectrum-lgbt.org/cmiToo/downloads/CMIT\\_Trans\\_Report\\_Dec08](http://www.spectrum-lgbt.org/cmiToo/downloads/CMIT_Trans_Report_Dec08). Last accessed 19 Dec 2008.

TUC. (2005) ‘Monitoring LGBT Workers’, Trade Union Congress, Online at: <http://www.tuc.org.uk/equality/tuc-9303-f0.cfm>. Last accessed 19 Dec 2008.