

13 February 2024

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proactive release

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I refer to your email of 10 January 2024 in which you request the following under the Official Information Act 1982 (OIA):

I am keen to please obtain information on the Ministry of Foreign Affairs and Trade's established workplace policies dedicated to LGBTQIA+ to ensure the Ministry is a safe and positive working environment for LGBTQIA+ staff.

I am particularly interested to know whether the Ministry meets the rainbow tick (or other LGBT+ criteria), ensuring that MFAT policies are effective to the community as an inclusive employer.

Can you also please share with me your Ministry's equivalent to the Australian DFAT's Lesbian, Gay, Bisexual or Gender Diverse and/or Intersex (LGBTI) Work place strategy and how this has been put into effect (and when it will apply until).

*I provide the link to the Australian DFAT report for reference:
<https://www.dfat.gov.au/about-us/publications/Pages/lgbti-workplace-strategy-2018-21>*

I would also please like to know how many NZ Ambassadors or High Commissioners of the rainbow community are currently representing New Zealand (and by extension the NZ rainbow community) off-shore. Please do not include the political appointee that represents these issues to the Pacific. I am more interested in the Ministry and it's career staff.

How many LGBTQIA+ identifying staff are in leadership roles at the Ministry, including in tiers 2 and 3 (which will indicate how inclusive and diverse MFAT is).

The Ministry of Foreign Affairs and Trade (the Ministry) has Gender Transition Guidelines to support transgender and non-binary staff who are transitioning or affirming their gender. These guidelines also support people leaders to support their staff who are transitioning or affirming their gender. We have attached these guidelines for your information.

The Ministry has an unacceptable behaviours policy which applies to all staff and all instances of unacceptable behaviour. We have attached this policy for your information.

The Ministry was first accredited with Rainbow Tick in April 2021 and is currently working with Rainbow Tick on our most recent reaccreditation. We are doing this alongside The Ministry's Rainbow Network.

Further information on the Ministry's inclusion of our rainbow communities can be found on the Ministry website at: <https://www.mfat.govt.nz/en/about-us/who-we-are/diversity-and-inclusion/>.

The Ministry does not have an equivalent to the Australian DFAT's Lesbian, Gay, Bisexual or Gender Diverse and/or Intersex (LGBTI) Workplace strategy. The closest comparable strategy we have is the Ministry Diversity and Inclusion Strategy which can be found on the Ministry website at: https://www.mfat.govt.nz/assets/About-us-Corporate/MFAT-corporate-publications/Diversity-and-inclusion/MFAT_Diversity-+-Inclusion-Strategy-Booklet-FINAL-19Jun.pdf.

Regarding your request for the following:

how many NZ Ambassadors or High Commissioners of the rainbow community are currently representing New Zealand (and by extension the NZ rainbow community) off-shore.

how many LGBTQIA+ identifying staff are in leadership roles at the Ministry, including in tiers 2 and 3.

The Ministry does not collect this type of data on Ministry staff. Therefore, this part of your request is refused under section 18(e) of the OIA, as the information you requested does not exist.

Please note that it is our policy to proactively release our responses to official information requests where possible. Therefore, our response to your request (with your personal information removed) may be published on the Ministry website: www.mfat.govt.nz/en/about-us/contact-us/official-information-act-responses/

If you have any questions about this decision, you can contact us by email at: DM-ESD@mfat.govt.nz. You have the right to seek an investigation and review by the Ombudsman of this decision by contacting www.ombudsman.parliament.nz or freephone 0800 802 602.

Nāku noa, nā

A handwritten signature in black ink, appearing to be 'SC', written in a cursive style.

Sarah Corbett
for Acting Secretary of Foreign Affairs and Trade

Gender transition guidelines

Purpose

These guidelines provide practical advice and information about how transgender and non-binary staff who are transitioning or affirming their gender can be supported within MFAT. MFAT is committed to supporting all staff irrespective of their gender or their sexuality. A supportive and respectful work environment is vitally important for all employees, including for trans and non-binary employees.

These MFAT guidelines can be viewed alongside [the Transitioning and Gender Affirmation in the New Zealand Public Service \(Te Tauwhiro Ira Tangata i roto i te Ratonga Tūmatanui o Aotearoa\)](#) advice, which was developed by the Cross-Agency Rainbow Network (CARN) to assist leaders, managers and teams to have conversations about transitioning and gender affirmation. The Transitioning and Gender Affirming in the New Zealand and Public Service guidelines not formal guidance issued under the Public Service Act (2020).

About gender transition

Transgender and non-binary people are people whose gender identities differ from the sex they were assigned at birth.

A transgender woman is a woman who was assigned male at birth. A transgender man is a man who was assigned female at birth. Some people identify outside of the gender binary, or as being fluid on a gender spectrum. There are various terms used to describe their gender identity, including takatāpui¹, genderqueer and non-binary.

Being transgender or non-binary means different things to different people. There is no one way to be transgender, and no one way for transgender people to look or feel about themselves. Not all non-binary and takatāpui people will use the term 'trans' to describe themselves. Many will, but some people see their non-binary gender as separate from being trans.

Refer to Annex I for further definitions.

¹ Takatāpui is a traditional Māori term that has been reclaimed to encompass all Māori of diverse sexualities, genders and sexes. [Growing Up Takatāpui: Whānau Journeys — Takatāpui | A Resource Hub \(takatapui.nz\)](#)

Overview

Transitioning is the process that many, but not all, trans people undergo to align their life, body and/or physical expression to match their gender identity. Each person's transition will involve different things. For some, it will involve accessing gender-affirming health care, such as hormone therapy and surgeries, but not all trans people want or are able to have this. Transitioning might also involve things such as telling friends and family about one's gender, dressing differently and changing official documents.

For many lesbian, gay, bisexual, transgender, queer or gender-diverse (LGBTQ) employees, "coming out" to co-workers or a manager is a very personal decision based on that individual's comfort level. Some aspects of a person's transition may involve external changes to their identity, body and expression, and so may be noticed by their co-workers. Regardless of how publicly an employee's transition is at work, it is entirely up to the individual to determine who they 'come out' to in their transition. People who experience or express their gender outside of conventional or cultural expectations will encounter many unique challenges.

Transition in the workplace has the potential to trigger prejudiced or discriminatory behaviours. The Ministry has made it clear in its Code of Conduct that it expects all staff to behave in a manner that is consistent with its values, including being inclusive, collaborative and respectful to one another.

If you are considering transitioning

If you are considering transitioning at work, we encourage you to meet with your manager to discuss how you can be supported during the transition process. At this meeting you are welcome to be supported by someone e.g. a friend, whānau member, colleague, union rep or member of the Rainbow Network. A member of the People Division can come along to support and facilitate the process.

Consider what information you would like to share with people at work (your manager, colleagues, external contacts), when you would like to share it, and how you would like to share it. Equally, consider what information you would prefer to keep private. Disclosure should happen on your terms.

Consider if there is anything that might impact on your work and what support you need, such as the amount of leave you might need to take, and other assistance you might require.

The concept of gender transitioning may be new to some people and they might need time to educate themselves. For more information, an online rainbow training module is available to all staff on the learning management system.

You can access the Employee Assistance Programme (EAP), and our internal counsellor, both of which are free and confidential services to help you during the process. You are also welcome to speak to, and seek support from, the Rainbow Network coordinators, whether or not you are a member of the network.

If you are a people leader and a member of your team is transitioning

If one of your staff members has disclosed that they intend to transition, your responsibility as their manager is to support their transitioning in the workplace. You may be asked to assist with communication to your team, division or post.

The concept of gender transitioning might be new to you, so please take appropriate steps to educate yourself about gender transitioning and what it means to be transgender:

i. You may wish to invite the staff member to tell you about their individual experience if they feel comfortable doing so.

ii. Refer to some educational resources:

- [Rainbow Inclusion module \(LMS\)](#)
- [Trans 101: glossary of trans words and how to use them - Gender Minorities Aotearoa](#)
- [Supporting Transgender People: Online Course - Gender Minorities Aotearoa](#)
- [Be An Ally 101 - Gender Minorities Aotearoa](#)

The aim is to create an environment of support and respect and to appropriately deal with any issues. Lead by example to set the correct tone in the workplace. Show manaakitanga, create a comfortable atmosphere, avoid making assumptions about the person, use the correct names and pronouns, and advise colleagues about using the correct names and pronouns. Please note that this should only be done on the trans employee's terms and with their express permission.

The staff member is encouraged to organise a meeting with their manager (you) to discuss their transition at work plan (please see below for what a transition plan can contain). Please ensure the staff member is aware they can be supported at that meeting by a friend, whānau member, colleague, HR representative, union rep or member of the Rainbow Network.

Maintaining confidentiality is critical, so avoid disclosing your staff member's transgender status prematurely and without permission. Be open-minded and demonstrate understanding. The transition plan will help you to determine how best to communicate the staff member's transition to MFAT colleagues.

In the case of the staff member needing time off work relating to their transitioning and gender affirmation process, leave should be treated the same as medical appointments for any other employees in accordance with their employment agreement and the Holidays Act. Other than for that reason, you should not ask the staff member to provide you with a medical certificate, or any other similar documentation about their transitioning.

Gender dysphoria

For some people, the difference between the sex they were designated at birth and the gender they know themselves to be can lead to serious emotional distress that affects their health and everyday lives if not addressed. Gender dysphoria is the medical diagnosis for someone who experiences this distress. Gender dysphoria is also a diagnostic label in some contexts to access gender affirming healthcare. While some trans people find gender dysphoria helpful as a label, other people find it more useful to describe their experiences in terms of gender euphoria; the positive feelings associated with being trans or non-binary.

Those who experience dysphoria may transition to alleviate this distress. This distress is often related to potential or actual discrimination that trans people experience if they disclose their gender, or are perceived as trans. As gender dysphoria can cause a significant amount of distress for those experiencing it, it is important to know how you, as the manager, can support your staff member.

Internal support options: Manager, PEP People Advisers, Rainbow Network, [EAP Services](#)

External support options: [Gender Minorities Aotearoa](#), [Transgender and Intersex NZ](#), [Naming NZ](#), [Gender Diversity Support](#)

Developing a transition plan with your employee

Every individual's journey is different and the expectations and responsibilities of different people will be unique to each transition. We encourage you to develop a transition plan considering the following things.

COMMUNICATION

- Who is going to be informed?
- How they are going to be informed? For example, by email or at a meeting. Will there be one announcement, or several?
- What information is going to be disclosed? This needs to be very clearly determined by the transitioning staff member.
- What information is to be kept confidential? This could be to just the staff member, or the staff member and the manager.
- Who is going to make the announcement? For example the staff member, their manager, their HR representative.
- When will any announcement take place and how will it be phrased? The person who is transitioning must always be consulted before an announcement is made.
- How does the staff member want to manage any ongoing communication? For example, at different stages of their transition, or in relation to different work tasks/cycles (e.g. at the commencement of each semester)?

TIMEFRAMES

TEAM-142-142

- If the staff member is comfortable doing so, it may be useful to document the dates or timeframes around when the staff member will:
 - Assume their gender at work (e.g. be known by their new name, referred to by new pronouns, etc.)
 - Adopt a workplace dress code to match their gender
 - Start to use facilities such as restrooms and changing rooms which match their gender. We have gender neutral bathrooms on Levels 10, 12 and 22 in the HSBC building.
 - Need to take time off work for medical treatments relating to their transition, if necessary, or to attend to any other matters directly associated with their transition. This includes appointments and recovery time pre and post-surgery. Talk to your HR Business Partner about options for returning to work for your staff member, this may include working from home, flexible hours or part time/phased return to work.

Updating records

At the appropriate time during your staff member's transition, you can encourage them to update relevant MFAT records. This section provides details on how to do so.

- Gender, title and new or preferred name can be changed at any time in the HRIS. This is accessed through [SuccessFactors](#).
- Your legal name/IR records can also be changed in the HRIS ([SuccessFactors](#)) by uploading evidence of a name change.
- If relevant, your diplomatic passport can be updated through Department of Internal Affairs and [Protocol Division](#). More information on this process can be found here: [New Zealand Passports](#) and legal documentation will need to be presented to ensure this change.
- You can request new security cards if it doesn't show the correct name/title or photo.
- A change of circumstances form needs to be completed and submitted to clearances@mfat.govt.nz. This is a mandatory requirement of the NZ national security clearance holder, where/when a significant change of circumstance in one's life occurs. This does not change the existing NZ national security clearance level that is held.
- Email addresses can be changed by submitting a [Global Services Request](#) or emailing Service.Centre@mfat.govt.nz – please include that you require a change for both the Orange network, Grey network (Mercury Mail) and Skype information.
- For name changes to Ministry issued credit cards, you can email DM-Accounts@mfat.govt.nz

Annex I

Sex	The sex characteristics associated with being female or male. Sex is a system of categorising people's bodies based on their biological sex characteristics, typically as a female or male.
Gender	Gender is an individual's internal sense of being a woman, a man, neither of these, both or somewhere along a spectrum. Unlike sex, it is socially constructed rather than based upon biological characteristics. Gender is not necessarily fixed or unable to be changed.
Transitioning or gender affirmation	The process a transgender or non-binary person may take to affirm their gender. It may involve social, legal, and/or medical steps. Transition generally initially includes social elements such as changing one's clothes, hair, name (socially and maybe legally), changing the gender marker on one's legal documents, binding one's chest or wearing breast forms, etc. It may also include accessing gender affirming healthcare such as laser hair removal, hormone replacement therapy, or various surgeries. There is neither a wrong way to transition, nor a singular right way.
Gender affirming surgery	Surgery that is performed to bring a person's body and sex characteristics into alignment with their gender. These surgeries can give relief from gender dysphoria, increase safety and comfort, and lessen or eliminate the need to take hormone therapy. There are various types of surgeries – genital, chest reconstruction, hysterectomies, and others.
Transgender (Trans)	A person whose gender identity is different from the sex they were designated at birth. Medically transitioning is not a prerequisite to being transgender, as not all transgender people can find it necessary to access gender affirming healthcare.
Gender diverse, genderqueer, non-binary	Terms used to self-describe gender identities that are outside the gender binary.
Gender dysphoria	For some people, the difference between the sex they were designated at birth and the gender they know themselves to be, can lead to serious emotional distress that affects their health and everyday lives if not addressed. Gender dysphoria is also a diagnostic label in some contexts to access gender affirming healthcare. While some trans people find gender dysphoria helpful as a label, other people find it more useful to describe their experiences in terms of gender euphoria; the positive feelings associated with being trans or non-binary.

6. Unacceptable Behaviours

Policy principle:

The purpose of this Unacceptable Behaviours Policy is to facilitate the good-faith identification and management of unacceptable behaviours in the Ministry so that these can be appropriately addressed.

Policy requirements:

Application

1. This policy applies to all staff, contractors and consultants as described below:
 - Ministry employees working in New Zealand;
 - Ministry employees working overseas at a New Zealand mission or post;
 - Staff employed at post to the extent possible given local legislation and specific contractual provisions will apply as relevant. A case by case assessment will be made as to the relevant rights, obligations and processes that may apply in such cases;
 - Employees of other departments and agencies assigned or seconded to the Ministry (whether working in New Zealand or overseas at a New Zealand mission or post) to the extent possible given that specific contractual provisions may apply.

Principles

- All those present in our workplaces have a responsibility to behave acceptably.
- The Ministry will not tolerate unacceptable behaviour.
- The Ministry aims to create a safe work environment:
 - Where staff can work in a place that is safe; and
 - If staff witness or are subjected to unacceptable behaviour, staff feel that they can speak up safely.
- The Ministry will proactively strive to create an environment free from unacceptable behaviour.
- All allegations of unacceptable behaviour will be dealt with in a confidential, objective and impartial manner in accordance with natural justice principles.
- The rights of all parties will be respected and all staff will be appropriately supported. This includes appropriate support to both the person making the allegation of the unacceptable behaviour, and the person against whom the allegation is made.
- The Ministry will not tolerate treating people or threatening to treat people differently because they have made, or propose to make, a genuine complaint or appear as a witness or provide information about such a complaint regarding unacceptable behaviour.
- This policy is intended to summarise and complement existing policies, rights, obligations and processes.

Policy Statement

2. The Ministry is committed to creating a positive and respectful working environment, underpinned by the Ministry's 'Speak Up Safely' programme and initiatives. Behaviour in our working environment is guided by the following expectations and obligations:
 - Our organisational values:

[Document ID]

- Impact – We achieve for New Zealand, every day, everywhere;
 - Kotahitanga – We draw strength from our diversity;
 - Courage – We do the right thing;
 - Manaakitanga – We honour and respect others.
- Our Codes of Conduct – the Ministry Code of Conduct and local equivalents that apply to staff at post;
- Relevant legislation, particularly:
 - The good employer obligations in the Public Service Act 2020;
 - The requirement to be a fair and reasonable employer in the Employment Relations Act 2000; and
 - The obligation on employers in the Health and Safety at Work Act 2015 to, so far as is reasonably practicable, eliminate hazards. Hazards include people's behaviour that may cause physical or psychological harm.
 - Other legislation such as:
 - The Human Rights Act 1993;
 - The Harassment Act 1997;
 - The Crimes Act 1961;
 - The Protected Disclosures Act 2000;
 - The Harmful Digital Communications Act 2015.
- Relevant provisions of employment agreements.
- Other relevant Ministry policies.
 - Examples of behaviour that is consistent with the Ministry's values include:
 - Being inclusive and working collaboratively;
 - Treating colleagues professionally and listening to and considering their views;
 - Being courteous and friendly to one another;
 - Communicating constructively on areas they disagree on or question;
 - Managers clearly setting out their expectations on work assignments and discussing with staff when their expectations are not met.

3. The Ministry expects all staff to behave in a manner that is consistent with the above.

Definition of Unacceptable Behaviour

4. "Unacceptable behaviour" is behaviour that breaches the obligations set out in our Policy Statement above.

5. Unacceptable behaviour can occur:

- Between staff at any and all levels in the Ministry;
- Between consenting or non-consenting staff;
- In dealing with stakeholders, contractors or members of the public.

6. Unacceptable behaviour does not include one-off or occasional instances of forgetfulness, rudeness or tactlessness.

7. Acceptable behaviour includes:

- Issuing reasonable instructions and expecting them to be carried out;
- Routine staff management and staff performance management, including insisting on a high standard of work, providing constructive feedback and requiring performance improvement;

- Expressing opinions that are different from others;
- Free and frank respectful discussion about issues or concerns in the workplace.

Resolution Processes

8. If you consider that you have been subjected to or witnessed unacceptable behaviour you have a range of options to consider. These options include the following:
9. Seek the advice or assistance of a Speak up Adviser. The Ministry has created a network of Speak up Advisers for those who consider they have been subjected to or witnessed unacceptable behaviour. They are able to listen to your concerns and advise on options for addressing your concerns.
10. Directly and informally approaching the person whose behaviour you consider unacceptable.
11. Speaking to your manager or your Group Business Manager.
12. Speaking to a Ministry HR team representative, Ministry Audit staff member, another Ministry manager, employee, union representative or a lawyer.
13. Making a formal complaint against a manager, co-worker or contractor who you consider has behaved unacceptably. Formal complaints are usually dealt with by the process in the Disciplinary Policy.
14. Making a Protected Disclosure in accordance with the Protected Disclosures Act 2000 if you consider the matter may amount to '[serious wrongdoing](#)'.
 - Ministry employment agreements have processes for resolving Employment Relationship Problems. See clause 20 of the Ministry of Foreign Affairs and Trade Collective Agreement and the Third Schedule of our standard Individual Employment Agreement. An 'Employment Relationship Problem' includes, but is not limited to a Personal Grievance under the Employment Relations Act 2000.
 - The primary problem-solving mechanism under the Employment Relations Act 2000 for resolving Employment Relationship Problems is MBIE provided mediation.
 - Complaints regarding sexual or racial harassment can be the subject of a personal grievance under the Employment Relations Act or a complaint to the Human Rights Commission under the Human Rights Act 1993 – but not both.
 - Staff employed at post have their own specific contractual provisions for resolving disputes and disagreements and staff from other departments and agencies may also have specific contractual provisions that will apply.
15. If you have been subjected to, or have witnessed, what you consider to be criminal behaviour, you should contact the police. This does not preclude you taking the other steps outlined above.

Policy Appendix – Sources of Rights and Obligations

Sources of Rights and Obligations

A breach of any of the following, or behaving in a way that is inconsistent with our values, may constitute unacceptable behaviour.

- a) Our Codes of Conduct – the Ministry Code of Conduct and local equivalents that exist at post:

- The primary source of obligations regarding appropriate behaviour at the Ministry is our Code of Conduct. Our Code is based on and includes the Standards of Integrity and Conduct issued by the Public Service Commissioner that applies to the Public Service.
- They both require 'core attributes' of Fairness, Impartiality, Responsibility and Trustworthiness.
- The section of our Code dealing with Fairness in particular has obligations that may determine what unacceptable behaviour is.
- Staff from other departments and agencies may also have applicable codes with obligations that may determine what unacceptable behaviour is.

- b) [Discrimination on the 13 prohibited grounds of discrimination in the Human Rights Act 1993;](#)
- c) [Sexual harassment;](#)
[Sexual harassment is defined in the Human Rights Act 1993 and the Employment Relations Act 2000 as well as our Code of Conduct.](#)
- d) [Racial harassment;](#)
[Racial harassment is defined in the Human Rights Act 1993 and the Employment Relations Act 2000 as well as our Code of Conduct.](#)
- e) [Workplace bullying \(defined by WorkSafe as 'repeated and unreasonable behaviour directed towards a worker or group of workers that can lead to physical or psychological harm'\). The WorkSafe definition of Workplace Bullying includes examples of what is and is not, Workplace Bullying as well as tools for dealing with Workplace Bullying.](#)
- f) [The Harassment Act 1997 prohibits repeatedly acting towards another person in a way that causes that person to reasonably fear for their safety.](#)
- g) [The Harmful Digital Communications Act 2015 is legislation that prohibits and provides remedies for harmful digital communications, such as 'cyber bullying and revenge porn'.](#)
- h) [The Protected Disclosures Act 2000 is the legislation that encourages people to report serious wrongdoing in their workplace and that provides certain protections for employees who make such reports.](#)
- i) [The Crimes Act 1961 and other legislation such as the Summary Offences Act 1981 outline various criminal offences.](#)

Resources:

[Unacceptable Behaviour Policy Guidelines](#)

[Guidance for complaints in formal investigations](#)

Speak Up Safely Te Aka page

[Staff hospitality expenditure standard](#)