



COLLECTING INCLUSIVE GENDER DATA

Promising practices

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Introduction

A human rights approach to pay equity

This document offers promising practices on how to collect inclusive gender data to meet human rights and pay equity requirements under the Canadian Human Rights Act and the Pay Equity Act.

Under the Pay Equity Act, federal workplaces with 10 employees or more need to determine which jobs are commonly held by women and which ones are commonly held by men. Doing this work requires having access to information about employees' gender identity.

As an employer, providing an opportunity for employees to self-identify their gender is an important step in advancing human rights in the workplace. While the Pay Equity Act acknowledges only male and female genders, the Canadian Human Rights Act requires that all genders be recognized and prohibits discrimination based on "gender identity or expression."

Ensuring that the data collection process respects gender diversity and those who may identify outside of the gender binary of male and female is not only a best practice, but an essential component of a human rights approach to pay equity.

The following provides some promising practices on how to collect inclusive gender data.

Collecting data for a human rights purpose is permitted and is in accordance with Canada's human rights legislative framework, including the Canadian Human Rights Act, the federal Employment Equity Act, and section 15(2) of the Charter of Rights and Freedoms.

It is important to collect data that is gender inclusive

Statistics Canada estimates that about 0.35% of the Canadian population is trans or non-binary: over 300 000 people (Statistics Canada, 2021).

The trans and non-binary population is younger and arriving into the workforce in greater numbers. While they tend to be more educated than their peers, these individuals face higher rates of unemployment and lower incomes (Trans PULSE Canada, 2021).

Collecting information on the gender of your employees aligns with obligations under Canada's human rights legislative framework and can:

- **Make visible** the experiences and needs of gender diverse peopleⁱ;
- **Destigmatize** gender diverse people;
- **Enable a healthy, safe, inclusive and productive workplace** (Ontario Human Rights Commission, 2009);
- **Foster greater understanding**;
- **Inform** the development of policies and programs that address issues affecting gender diverse people (Brown et al., 2017); and,
- **Track** the impact of these policies and programs in your workplace (Brown et al., 2017).

Spotlight on Grant Thornton – “At Grant Thornton, leading inclusively is not an initiative, it is a commitment. Their National Management Committee appointed Inclusiveness Partners (IPs) in each of their business units to ensure that their Leading inclusively goals were being role modeled and embedded in their people practices and processes at the local office level. Annually, employees are surveyed to understand their perceptions, to measure progress and inform the Leading inclusively priorities each year. The IPs review and share the results as well as develop action plans that are locally relevant and nationally aligned. – (Grenier, Alison & Hixson-Vulpe, Jacq., 2017, p.20).

Promising practices

Some **promising practices** concerning the collection of data on the gender of employees include:

1. Communicating actively;
2. Choosing a method that meets the purpose and goals for the data collection exercise;
3. Putting in place measures to protect the safety of employees;
4. Protecting the data; and,
5. Asking the right questions.

1. Communicating actively

Collecting sensitive information can raise concerns about safety, privacy and confidentiality. For these reasons, it is important for organizations to support their employees and data collection efforts through a communication strategy. Examples of the types of information and steps that employers could take as part of a communication strategy include:

- **Consulting with employees** – Consulting with community representatives and other appropriate individuals/organizations can help foster an informed understanding and dialogue, so that data collection initiatives are well supported and effective (Ontario Human Rights Commission, 2009).
- **Restating** the organization’s **commitment** against discrimination on the basis of **gender identity or expression**;
- **Communicating** the **rationale, method** and **benefits** of collecting data;
- **Clarifying** who will have **access** to the information and **why**;
- **Informing employees that their data will be kept private**, that the organization will take steps to ensure that their gender identity is not inadvertently revealed, and that the organization will take steps to prohibit any unauthorized access or use of this data; and
- **Outlining how** the information collected will be **handled and stored confidentially** in compliance with privacy, human rights and other applicable legislation.

2. Choosing a method that meets the purpose and goals of the data collection exercise

The method that an organization chooses to collect gender information from employees will vary.

Two common methods include obtaining the information:

- Through confidential employee records via Human Resource Information Systems; and,
- Through anonymous employee surveys (Human Rights Campaign Foundation, 2018).

The type of data that you collect can be **quantitative**ⁱⁱ, **qualitative**ⁱⁱⁱ, or a mix of both – depending on the needs, purpose or goals of the organization’s data collection exercise. Any method used should **collect data from all employees** rather than just those that represent or are perceived to represent target groups.

Spotlight on Ernst & Young (EY) - Upgraded its HR system in the UK to a global system used by the firm worldwide. Flexibility has been built into the system so that questions about sexual orientation and gender identity, along with other diversity demographics, could be asked in countries that wish and are able to do so. The UK Diversity and Inclusiveness team has encouraged colleagues in other countries to make use of additional diversity monitoring questions where appropriate. This has been a useful opportunity to share good practice with colleagues in other parts of the world. In the USA, EY now asks self-identification questions on employees’ sexual orientation and gender identity. Employees in countries where it would be unsafe or inappropriate to ask about sexual orientation or gender identity are unaffected by the change. – (Stonewall, 2016, p. 13)

3. Putting in place measures to protect the safety of employees

Discrimination against employees based on their gender identity and expression has been well documented:

- In 2018, trans employees were 3 times more likely to experience unwanted behaviours in the workplace compared to cisgender employees, including inappropriate sexual jokes, unwanted sexual and physical attention and suggestions that they do not act like a woman/man is supposed to act (Statistics Canada, 2018).

The safety of employees is essential. Ensure that measures are put in place to protect an individual’s anonymity and data confidentiality. Examples of measures that can promote the safety of employees include:

- Confidentiality policies or non-disclosure contracts;
- Use identification numbers rather than personal information (such as an individual name) during data collection; and,
- Use of aggregated data for analysis purposes.

Trans, non-binary, and gender-diverse people want to be counted. However, the method of data collection or analysis should not inadvertently out them in their workplace (Human Rights Campaign Foundation, 2018).

Spotlight on Royal Bank of Scotland (RBS) - RBS has commissioned an external organisation to collect their LGBT data and provide aggregated reports. This assures employees that anonymity will be maintained throughout the process. The annual staff engagement survey is conducted electronically and can be submitted from home to maintain anonymity and make sure employees feel comfortable answering the questions. – (Stonewall, 2016, p.15)

4. Protecting the data

In considering the safety of employees, organizations should also consider the safety of the data, as these two steps go hand in hand.

Organizations should ensure that the use, storage and reporting of the data is protected.

- **Used** – Organizations should always clearly articulate the purpose for which the information will be used for each data collection exercise;
- **Stored** – Organizations should keep sensitive paper or electronic information secure; and,
- **Reported** – Organizations should ensure that findings cannot be linked back to an individual.

It is important to review data protection practices regularly to ensure they are up to date and adjust as needed (The Task Force on Communicating Gender Statistics, 2020).

Spotlight on IBM - IBM's self-identification project was first rolled out in 2006 and as of 2016; 86% of IBM employees fall under the system globally. IBM has successfully introduced monitoring in 33 countries, including Canada.

Once IBM determines that it is legal and safe to introduce self-identification in a specific country, the local IT system is assessed and tested until it is considered ready. While employees access the self identification platform through their HR records, the self-identification data is stored in a single detached database and is therefore held separate from any other HR related information. IBM stores all collected LGBT data in a database in the USA. Only two people at IBM have access to the data, namely a Data Analyst and the Global Programme Manager of the LGBT Constituency. This enables IBM to guarantee the confidentiality and security of the data. – (Stonewall, 2016, p.18)

5. Asking the right questions

Collecting data on employees' gender must be done sensitively.

- **Choose the right format** – The right format of the questionnaire and question itself will depend on many factors, such as for example, the purpose, goal or rationale behind collecting the data (Bauer et al., 2017).
- **Describe the terms** – Organizations should offer explanations for each term that is provided as an option to describe a person's gender identity. You may want to design your question with a response that permits respondents to identify using their own language, instead of providing them with a set of predefined categories. This is known as a "prefer to self-describe" option.

Example: Describing the terms

Gender: Gender is a social and personal identity – such as man, woman, two-spirit, non-binary, etc. Conceptions of gender are influenced by several factors including biological features, cultural and behavioural norms and self-identity.

Cisgender or cis: Cisgender, or 'cis' refers to someone whose gender aligns with their sex assigned at birth.

Transgender or trans: Transgender refers to people whose gender is different than their sex assigned at birth.

Non-binary: Non-Binary refers to someone whose gender doesn't align with binary terms like 'man' or 'woman'. Other terms that describe non-binary gender(s) include: gender-fluid, gender-queer, gender-non-conforming, and agender, among others.

Two-spirit: Two-Spirit is a term used by some Indigenous people whose gender, spiritual identity and/or sexual orientation includes both male and female spirits.

- **Use appropriate language** – The way employees are asked about their gender is important. Inappropriate language may deter people from answering the questions, lead people to answer questions inaccurately or cause offence. Questions should enable employees to understand what they are being asked and should make them feel comfortable answering them.
- **Offer the 'prefer not to say' option** – It is important to make diversity questions optional, for instance through a 'prefer not to say' option. It is always the choice of the individual being asked the question to determine whether they wish to participate in the data collection exercise or not. It is best that you support this decision by providing information about the purpose or rationale of the data collection exercise and reassurance that measures have been put in place to protect an individual's anonymity and data confidentiality (Stonewall, 2016).

Example: Asking the right question

How do you identify your gender?

Gender refers to your current gender, which may be different from the sex assigned to you at birth and may be different from what is indicated on your identification or legal documents.

- Woman (Cis or Trans)
- Man (Cis or Trans)
- Two-spirit
- I use a different term to describe my gender (e.g. non-binary, genderqueer)
- Prefer not to say

RESOURCES

For **more information on the Pay Equity Act**, visit the Canadian Human Rights Commission's website at: <https://www.payequitychrc.ca/en>

For more in-depth **information on promising practices** for collecting inclusive gender data, please explore the following resources:

Bauer G., Braimoh J., Scheim A., Dharma, C. (2017) Transgender-inclusive measures of sex/gender for population surveys: Mixed-methods evaluation and recommendations. *PLoS ONE* 12 (5): e0178043. Retrieved from:

https://pdfs.semanticscholar.org/348f/c889f6d51f72fb7a22c877653cba9ddc30b5.pdf?_ga=2.46478439.1514598027.1634061996-943223701.1634061996

British Columbia's Office of the Human Rights Commissioner. (2020). Disaggregated demographic data collection in British Columbia: The grandmother perspective. Retrieved from:

https://bchumanrights.ca/wp-content/uploads/BCOHRC_Sept2020_Disaggregated-Data-Report_FINAL.pdf

Brown, T.N.T., Herman, J.I., Park, A.S. (2017). Exploring International Priorities and Best Practices for the Collection of Data about Gender Minorities, Report of Meeting. Los Angeles, CA: *The Williams Institute*.

Retrieved from: <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Intl-Data-Collection-Gender-Minorities-Mar-2017.pdf>

Grenier, A. & Hixson-Vulpe, J. (2017). Beyond Diversity: An LGBT Best Practice Guide for Employers. Great Place to Work and Pride at Work Canada. Retrieved from: <https://prideatwork.ca/wp-content/uploads/2017/09/Beyond-Diversity-LGBT-Guide.pdf>

Human Rights Campaign Foundation. (2018). LGBTQ Self-Identification in the Workplace. Retrieved from: https://assets2.hrc.org/files/images/resources/HRCF_LGBTQ_Self-Identification_One_Sheet_2018.pdf

MAC Dewitt Wallace Library. (2021). Research Guides – Data Module #1: What is Research Data?. Retrieved from: <https://libguides.macalester.edu/c.php?g=527786&p=3608639>

Navarro, J., Lachowsky, N., Hammond, R., Burchell, D., Arps, F.S.E., Davis, C., Brasseur, J., Islam, S., Fosbrook, B., Jacobsen, H., Walker, M., Lopez, C., Scheim, A., Bauer, G on behalf of the Trans PULSE Canada Team. (2021). Health and well-being among non-binary people. Retrieved from: <https://transpulsecanada.ca/research-type/reports>

OECD. (2006). Glossary of Statistical Terms: Quantitative Data. Retrieved from: <https://stats.oecd.org/glossary/detail.asp?ID=2219>

Ontario Human Rights Commission. (2009). Count me in! Collecting human rights-based data. Retrieved from: www.ohrc.on.ca/en/count-me-collecting-human-rights-based-data

Park, A. (2016). Reachable: Data collection methods for sexual orientation and gender identity. *The Williams Institute*. Retrieved from: https://www.researchgate.net/publication/332061070_Reachable_Data_collection_methods_for_sexual_orientation_and_gender_identity

Statistics Canada. (2018). Transgender and cisgender Canadians' experiences of unwanted behaviours in the workplace. Retrieved from: https://www150.statcan.gc.ca/n1/pub/85-002-x/2020001/article/00009/tbl/tbl12-eng.htm#tab12s_1asterisk

Statistics Canada. (2020). Sex at birth and gender: Technical report on changes for the 2021 Census. Retrieved from: <https://www12.statcan.gc.ca/census-recensement/2021/ref/98-20-0002/982000022020002-eng.cfm>

Stonewall. (2016). Do Ask, Do Tell: Capturing data on sexual orientation and gender identity globally. Retrieved from: https://www.stonewall.org.uk/sites/default/files/do_ask_do_tell_guide_2016.pdf

The GenIUSS Group. (2014). Best Practices for Asking Questions to Identify Transgender and Other Gender Minority Respondents on Population-Based Surveys. J.L. Herman (Ed.). Los Angeles, CA: *The Williams Institute*. Retrieved from: <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Survey-Measures-Trans-GenIUSS-Sep-2014.pdf>

The Task Force on Communicating Gender Statistics. (2020). Guidance on Communicating Gender Statistics. *United Nations Economic Commission for Europe*. Retrieved from: https://unece.org/DAM/stats/publications/2020/CommsGender_Publ_wCovers.pdf

Translation Bureau. (2019). Gender and sexual diversity glossary: Gender-diverse people. Retrieved from: <https://www.btb.termiumplus.gc.ca/publications/diversite-diversity-eng.html#g>

Xavier, J. (n.d.) A Quick Reference Guide for Research with Trans People. Retrieved from: <https://www.lakeheadu.ca/sites/default/files/profile-data/swright/Reference%20Guide%20-Gender%20and%20demographic%20questions.pdf>

ⁱ The term “gender-diverse people” translates as “personnes de diverses identités de genre”. This terminology was developed by the Translation Bureau and is compiled in the Gender and sexual diversity glossary (Translation Bureau, 2019).

ⁱⁱ **Quantitative** data is data expressing a certain quantity, amount or range. Quantitative data are used when a research is trying to quantify a problem, or address the “what” or “how many” aspects of a research question (OECD, 2006 and MAC Dewitt Wallace Library, 2021).

ⁱⁱⁱ **Qualitative** data is data describing the attributes or properties that an object possesses. Qualitative data are collected using questionnaires, interviews, or observation, and frequently appears in the narrative form. The data may be in the form of descriptive words that can be examined for patterns or meaning, sometimes through the use of coding. Coding allows the researcher to categorize qualitative data to identify themes that correspond with the research questions and to perform quantitative analysis (OECD, 2006 and MAC Dewitt Wallace Library, 2021).