



# Workplace Policy: Sex, Gender Identity & Expression

Ireland

## WORKPLACE POLICY: SEX, GENDER IDENTITY, AND EXPRESSION

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### 1. Purpose and Scope

1.1 This policy outlines [ORGANISATION]'s approach to sex, gender identity and expression. It provides comprehensive guidance for employees and managers, ensuring compliance with relevant legislation while recognising the complexity and evolving nature of these issues.

1.2 The policy applies to all [ORGANISATION] employees and contractors across all levels of the organisation and in all work-related contexts.

1.3 [ORGANISATION] acknowledges the lack of legal clarity in some areas related to sex and gender identity. We are committed to staying informed about legal developments and updating our policies accordingly to ensure the rights and safety of all employees are protected.

### 2. Definitions

2.1 Sex: The biological classification of people as male or female, typically observed at birth based on physical characteristics.

2.2 Gender expression: How a person outwardly expresses their personality through clothing, hairstyle, behaviour, and other visible characteristics. This may or may not conform to societal expectations associated with their sex.

2.3 Gender identity: A term used to describe an individual's personal sense of being male, female, both, or neither. Some people report experiencing this as an internal sense of gender, while others do not. Views on this idea vary widely.

2.4 Gender-related distress: A sense of unease or dissatisfaction related to one's sex or societal gender expectations.

2.5 Transgender: An umbrella term for people whose gender identity differs from their sex observed at birth.

### 3. General Principles

3.1 [ORGANISATION] is committed to maintaining a professional work environment where all employees are treated with dignity and respect, regardless of their sex, gender identity, gender expression, or personal beliefs about sex and gender.

3.2 [ORGANISATION] recognises the importance of biological sex in contexts such as health and safety planning, data collection, the provision of certain facilities, and in certain job roles where sex is a genuine occupational requirement.

3.3 [ORGANISATION] acknowledges that employees may hold a range of views on matters related to sex and gender. The expression of these views is protected under equality legislation, provided it is done respectfully and does not create a hostile work environment.

3.4 [ORGANISATION] will comply with all relevant legislation while balancing the rights and needs of all employees. This includes recognising various protected characteristics and beliefs as defined by applicable equality legislation.

## 4. Workplace Practices

### 4.1 Communication Preferences

4.1.1 [ORGANISATION] recognises that some employees may have gendered communication preferences related to names and pronouns, while others may have personal, religious, or philosophical beliefs that conflict with using pronouns that do not align with a person's biological sex.

4.1.2 Employees may use a preferred name for professional interactions. This does not change their legal name in official records. Colleagues are encouraged to make reasonable efforts to use an employee's preferred professional name.

4.1.3 Employee email signatures may include preferred pronouns if desired, but this is not mandatory. [ORGANISATION] respects an individual's choice to include or not include pronouns in their signature. Employees should not pressure colleagues to declare pronouns if they are not comfortable doing so.

4.1.4 Where an employee has personal, religious or philosophical beliefs that conflict with using pronouns that do not align with a person's biological sex, using the person's name or neutral language is an acceptable alternative.

### 4.2 Facilities

4.2.1 Single-occupancy, gender-neutral facilities will be provided where possible. These may include toilets, changing rooms, and shower facilities.

4.2.2 Sex-specific multi-occupancy facilities such as toilets, changing rooms, and showers will be maintained based on biological sex, in accordance with current legislation permitting single-sex spaces. This is to ensure the safety, privacy, and comfort of all employees.

4.2.3 [ORGANISATION] will consider reasonable accommodations for employees who are uncomfortable with existing facility arrangements, such as providing access to single-occupancy facilities where available or adjusting schedules to minimise overlap in facility usage. These accommodations will be assessed on a case-by-case basis, balancing the needs of the individual with the rights and comfort of all staff, while ensuring that sex-based protections are maintained where necessary for privacy, dignity, and safety.

4.2.4 Employees with questions or concerns are encouraged to contact their HR Business Partner.

### 4.3 Data Management

4.3.1 [ORGANISATION] will maintain accurate records of employees' biological sex for relevant purposes (e.g., health and safety, legal reporting, pension administration) in compliance with data protection laws.

4.3.2 Information about an employee's gendered communication preferences may be recorded additionally, not as a replacement for sex-based data.

4.3.3 Access to information about an employee's sex, gender identity, or transgender status will be strictly limited to those with a legitimate need to know, such as HR personnel or occupational health professionals.

## 5. Support for Employees Experiencing Gender-Related Distress

5.1 [ORGANISATION] recognises that some employees may experience gender-related distress. We are committed to supporting these employees while maintaining a professional work environment for all staff.

5.2 Employees experiencing gender-related distress are encouraged to speak with their line manager or HR representative when they feel comfortable doing so. These conversations will be treated with confidentiality.

5.3 [ORGANISATION] will provide support to employees experiencing gender-related distress, which may include:

- Time off for medical appointments and treatments. [ORGANISATION] is committed to supporting employees who need to attend medical appointments for a wide variety of reasons. Appropriate time to attend medical consultations / appointments associated with transitioning will be given to employees, in line with the Health-Related Absence policy.
- Special Domestic Leave: Any employee who is transitioning and needs time away from work may raise this with their line manager and HR Business Partner.
- Access to [ORGANISATION]'s Employee Assistance Programme (EAP), Health and Wellbeing Support Services, and Confidential 24/7 Counselling Service
- Reasonable workplace accommodations, assessed on a case-by-case basis, should be raised with the employee's line manager and agreed with the HR Business Partner. Decisions should be documented and reviewed after implementation.

5.4 [ORGANISATION] acknowledges that views on gender-related issues vary widely. While respectful dialogue is encouraged, employees are reminded that discussions on this topic in the workplace must remain professional and should not create a hostile environment for any staff member.

## 6. Training and Education

6.1 [ORGANISATION] offers training on respectful workplace interactions, diversity, and inclusion. This training is designed to promote a professional work environment and is available to all employees.

6.2 Training will present factual information about sex, gender, and legal obligations, while acknowledging that there are different perspectives on these issues. It will focus on maintaining a respectful and professional workplace for all.

6.3 [ORGANISATION] will ensure that training materials and content are developed with input from a diverse range of perspectives to promote viewpoint diversity and a balanced approach.

## 7. Conflict Resolution

7.1 Employees are encouraged to resolve conflicts related to this policy through open and respectful dialogue.

7.2 If informal resolution is not possible, employees should follow the standard grievance procedure.

7.3 [ORGANISATION] will handle conflicts fairly, considering the rights and needs of all involved parties, and the requirement to balance different protected characteristics under equality legislation. No employee should be exposed to hostile, degrading or discriminatory conduct at work, regardless of their protected personal beliefs or transgender status, gender identity and expression.

7.4 Retaliation against any employee for raising concerns or participating in the conflict resolution process is strictly prohibited.

## 8. Case Studies

### 8.1 Legal Considerations: Maya Forstater v CGD Europe

The 2021 UK Employment Appeal Tribunal ruling in *Maya Forstater v CGD Europe* established that gender critical beliefs are protected under the Equality Act 2010. Forstater's belief that biological sex is real, important, and not to be conflated with gender identity was deemed worthy of respect in a democratic society. This landmark case underscores the legal protection for employees holding gender critical views, while also noting that the expression of these views must not violate others' dignity or create an intimidating work environment. The ruling emphasises the importance of allowing diverse perspectives in the workplace, including those that may be controversial or challenging to some. It highlights that employers must balance protecting employees' rights to hold and express gender critical beliefs with maintaining a respectful and inclusive work environment for all staff.

### 8.2 Reputational Considerations: IRFU Gender Participation Policy

The Irish Rugby Football Union (IRFU) faced significant reputational challenges due to its handling of gender identity issues in rugby participation. Initially, the IRFU implemented a policy allowing participation in women's rugby based on gender self-identification. This decision, made without thorough consideration of all perspectives and potential consequences, led to widespread public criticism and negative media attention. The organisation was accused of prioritising certain ideological views at the expense of fairness and safety in women's rugby, damaging its reputation among players, fans, and the wider public. Recognising the reputational damage and the need for a more balanced approach, the IRFU revised its policy in August 2022, limiting women's contact rugby to those whose sex was recorded as female at birth. This aligned with World Rugby guidelines and was based on new scientific evidence. The IRFU's handling of the policy change demonstrated an awareness of the reputational stakes involved. They engaged directly with affected individuals, offered alternative ways to stay involved in rugby, and communicated the reasons for the change clearly. This case highlights the reputational risks involved in addressing complex and sensitive issues, underscoring the importance of thorough stakeholder consultation, evidence-based decision-making, and clear communication in maintaining organisational reputation when dealing with controversial topics.

### 8.2 Policy Considerations: Ms R Taylor v Jaguar Land Rover Ltd

An Employment Tribunal found that Jaguar Land Rover had discriminated against Taylor on the basis of the Equality Act 2010 protected characteristic 'gender reassignment'. Jaguar Land Rover did not have a policy on sex, gender identity and expression in the workplace and Taylor's line manager and HR advisor gave conflicting advice about how a transition at work should take place. Jaguar Land Rover failed to take appropriate action to address offensive and discriminatory comments made by Taylor's colleagues. *Taylor v Jaguar Land Rover*

highlights the importance of having a clear policy on gender identity and expression and the duty employers have to thoroughly investigate all allegations of harassment and discriminatory conduct.

## **9. Policy Review**

9.1 This policy will be reviewed regularly, at least every two years, to ensure it remains compliant with current legislation and best practices.

9.2 [ORGANISATION] is committed to seeking diverse perspectives in this review process to ensure a balanced approach. This will include consulting with employee resource groups, seeking input from legal experts, reviewing industry best practices, and considering feedback from all employees.

9.3 Any proposed changes to the policy will be communicated clearly to all employees, with opportunities for questions and clarification.

9.4 [ORGANISATION] is committed to ensuring that the policy review process includes consultation with a wide range of stakeholders. This approach aims to promote viewpoint diversity and ensure that the policy reflects a balanced consideration of different perspectives, rather than being unduly influenced by any single viewpoint on these complex issues.